City of Ketchum
Planning & Building

STAFF REPORT
KETCHUM PLANNING AND ZONING COMMISSION
MEETING OF JUNE 4, 2026

PROJECT:	Marsupial Properties Stabilization Project
FILE NUMBER:	P-24-038
APPLICATION:	Floodplain Development Permit
PROPERTY OWNER:	Marsupial Properties LLC
REPRESENTATIVE:	Nick Kraus, QRS Consulting LLC
REQUEST:	Bank Stabilization Project
LOCATION:	411 Northwood Way, Resubdivision of Northwood PUD Lot 2, Lot 1
ZONING:	Limited Residential (LR)
OVERLAY:	Floodplain Management Overlay District (FP)
REVIEWER:	Allison Kennedy – Senior Planner
NOTICE:	A courtesy notice for the public meeting on the project was mailed to all property owners within 300 feet of the project site on May 13, 2026. The notice was sent to al political subdivisions and Flood Control District #9 on May 13, 2026. The notice was published in the Idaho Mountain Express on May 13, 2026. The materials were posted on the City website on May 7, 2026. A notice was posted on premises May 20, 2026.

EXECUTIVE SUMMARY

The application was submitted in 2024, before adoption of the updated code, and was therefore reviewed under the previous Ketchum Municipal Code (KMC) Title 17. The proposed work was required as a condition of approval for the emergency stream stabilization permit issued during the spring 2023 flood event, which allowed installation of rock riprap. After floodwaters receded, the applicant was required to submit a formal Floodplain Development Permit application to stabilize the bank in compliance with current regulations and engineering requirements. The applicant submitted that permit in 2024. The application then proceeded through staff review and was revised in response to City comments to a level staff determined was sufficient to schedule a public hearing. Title 17.88.50 D.2. states that applications can be sent to the Planning and Zoning Commission if stream alteration projects contain rip rap.

Timeline:

Spring 2017: High flood event (see Figure 1) caused significant erosion to the north-eastern bank of the Big Wood River adjacent to 411 Northwood Way.

August 6, 2020: The applicant applied for a Stream Bank Stabilization Permit (P20-073) and was provided feedback from city staff and floodplain manager. The project was deemed incomplete and did not go to hearing.

Figure 1 June 2017: 411 Northwood Way; flood-stage

Figure 2 Post Emergency Work 2023: 411 Northwood Way

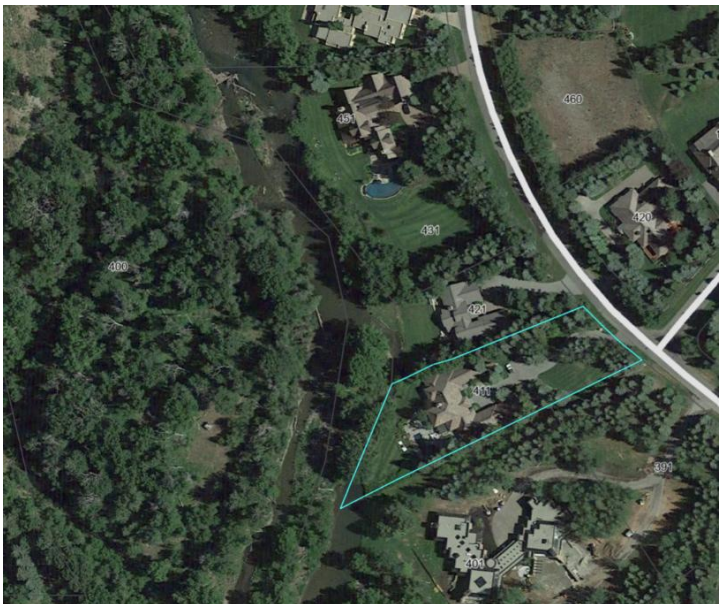


Figure 3: 411 Northwood Way; 2016 prior to floods of 2017 & 2023

May 2023: Another high flood event caused significant erosion to the north-eastern bank of the Big Wood River adjacent to 411 Northwood Way.

May 3, 2023: An Emergency Stream Bank Stabilization Permit (23-030) was issued by the City of Ketchum to allow the applicant use ~ 60-80 cubic yards of rock to stabilize the northeast eroding bank of the Big Wood River running an approximate length of 75 feet (see Figure 2).

Conditions of approval #5 & #6 were included in the permit:

- *The applicant shall submit a complete Waterways Design Review/Stream Alteration application to the City of Ketchum by November 3, 2023; the application shall address all applicable floodplain development, waterways, and streambank alteration criteria.*
- *If a City of Ketchum waterways design review/stream alteration permit subject to Chapter 17.88 and all other applicable state and federal agency permits are granted, the applicant shall then complete restoration of the affected property to city and state standards by either March 31 of the year following the issuance of the emergency permit or by another date specified by approval authority.*

May 2, 2024: The applicant submitted a Floodplain Development Permit (P24-038)
June 5, 2024: Round #1 Comments were provided to the applicant from Harmony Design (City Floodplain Manager)(See Attachment: I)
June 14, 2024: Round #1 Comments on application were provided to applicant by City staff. (See Attachment: H)
November 20, 2025: The City provided comments to the applicant regarding a revised plan. (See Attachment: K)
January 15, 2025: The City responded to the applicant who requested that their property be excluded from the 25' riparian setback regulations by requesting their lawn be viewed as a lawful nonconformity. The City responded that the applicant is required to adhere to the 25' riparian setback in the 1983 PUD Plat notes & Floodplain regulations. (See Attachment: J)
January 27, 2026: Letter received from applicant reiterating that they are not subject to the 25' riparian setback. (See Attachment: F)
March 16, 2026: The applicant responds to Planning and Floodplain Manager comments and resubmits Project Narrative, Bank Design, Adjacent Neighbor permission letter, and Responses to Floodplain Manager and resumes application process. (See Attachments: B-E)
May 7, 2026: Public Hearing Scheduled for June 4, 2026

PROJECT SUMMARY

The project consists of two main components: A) Stream bank stabilization and B) Riparian revegetation that supports the bank stabilization engineering. (Please review Attachment B Project Narrative & C Updated Project Design for complete project proposal details.)

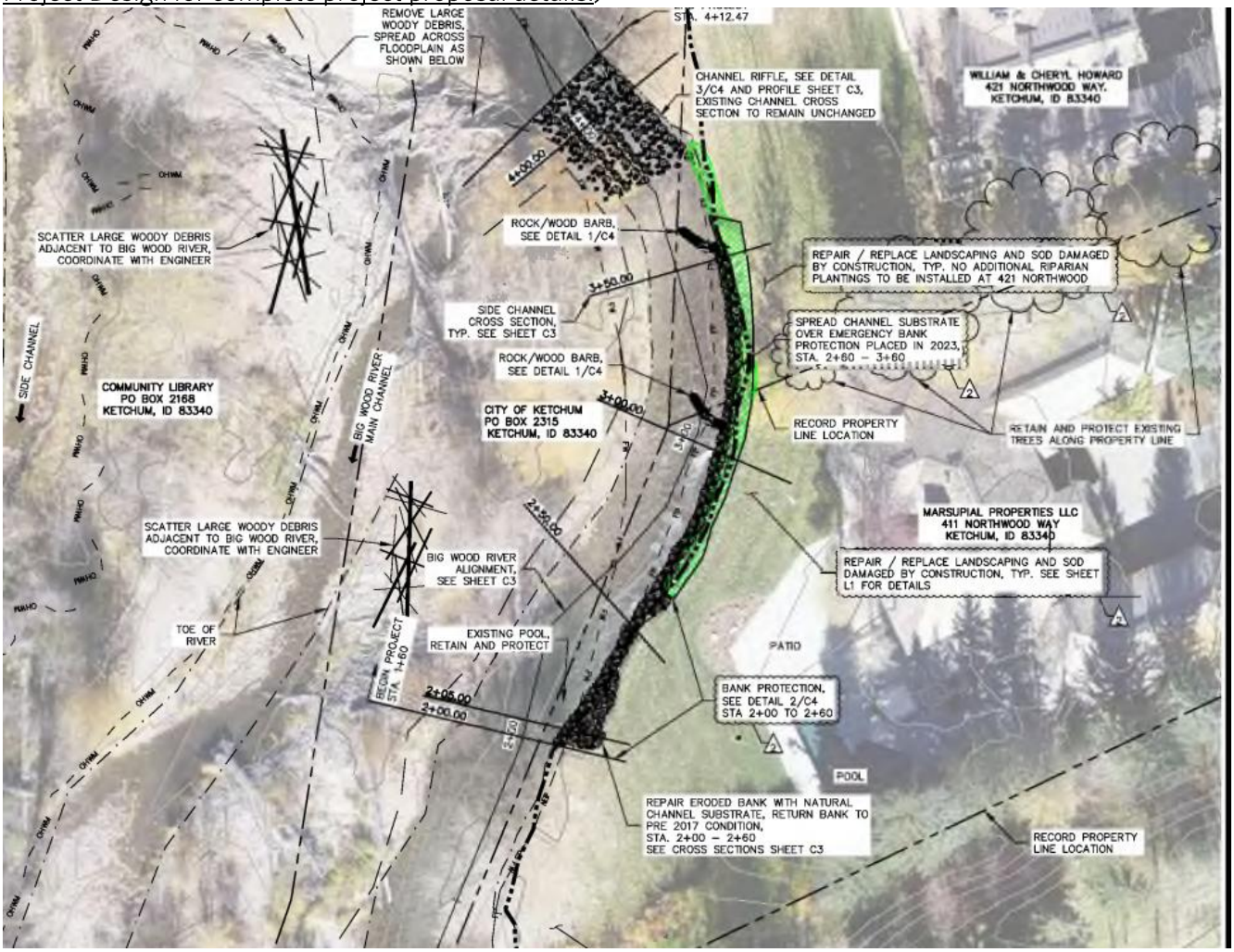


Figure 4; Attachment C: Site Plan

A) The streambank stabilization project proposes three components: 1. Engineered channel riffle utilizing imported channel riffle rock and mixing with native substrate. Willow cuttings will be inserted 12" along the edges of the proposed riffle. 2. Rock wood bank barbs to help direct waters away from the bank and mitigate high flows levels within the reach adjacent to the homes and lawn area. The 12-18" diameter cottonwood log will be affixed to the bank with rock riprap, native soils, and covered above the ordinary highwater mark with topsoil and lawn to the river's edge. 3. Reinforcing and improving emergency riprap by spreading 6" of naturalized channel substrate and regrading the top of the existing bank. The scattered large woody debris will no longer be part of the project as the Community Library did not give landowner permission. Harmony Design, the City Floodplain Manager, reviewed the project and states that the long-term stability of instream and bank engineering is sufficient however would like to ensure no rise.

Floodplain Manager Review Comment:

No Rise Certification and Hydraulic Model

5. *The documentation for the 2D no rise analysis must follow the latest FEMA Guidance for Flood Risk Analysis and Mapping. The results of the proposed conditions model must be compared to the existing conditions model to show no increase to 0.00' at any existing or new evaluation line, which is a line of constant elevation in the 2D model and does not correspond to the 1D cross sections. Additionally, the water surface*

elevation grids should be compared (subtracted) for the existing and proposed conditions to ensure that the proposed development causes no local (point) rise on any existing insurable structure. Please provide a table that compares the existing and proposed 1% annual chance flood elevations along evaluation lines and a map of the elevation difference grid with existing structures shown.

6. *Please provide a single map that shows the comparison of the velocity grids (subtracted) between the existing and proposed conditions.*
   (See Attachments D & I for Harmony Comments)

B) The riparian revegetation plan that supports the streambank stabilization consists of five native shrub plantings (5 gallon size) and additional willows to be inserted 12" to streambank and trimmed to 6" above ground within a 5' to 7' wide buffer area adjacent to the rip rap project. The applicant is proposing hydroseeding native grasses along the bank within the 5'-7' buffer area. Sod to be placed up to the buffer area. In addition, the applicant proposes to limit fertilizer and pesticides within the 25' riparian area and replace existing sprinklers and repair the lawn. The revegetation rate of 80% after three years of established growth is targeted within the applicant's maintenance and monitoring plan. (See Applicant Narrative; Attachment B and Updated Project Design; Attachment C)

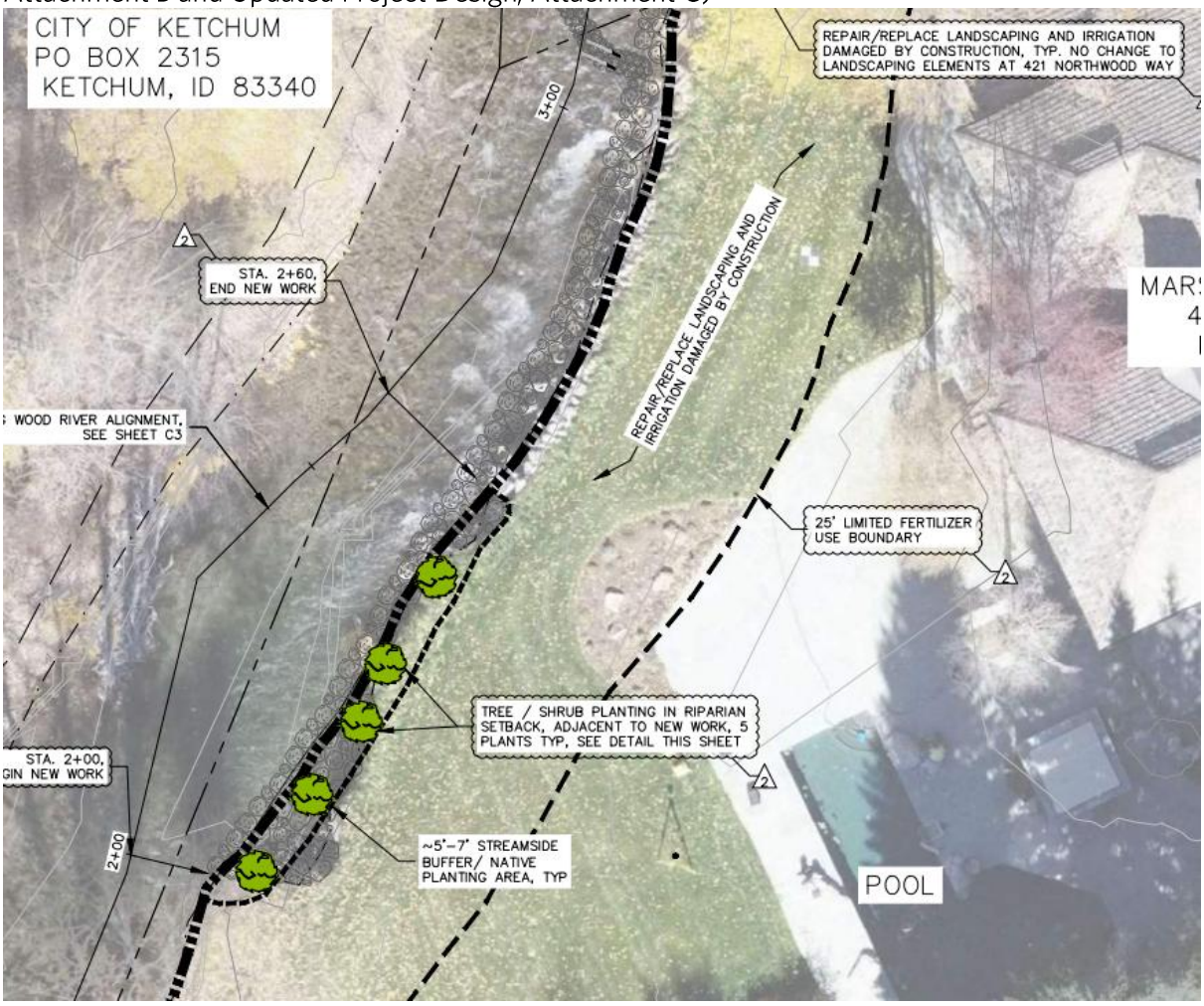


Figure 5; See Attachment C: Sheet L1

Planning staff review comments and requested actions to resolve comments(Copied from Attachment K; 11.20.2025) that remain applicable to the most current 2026 riparian revegetation plan sheet L1 and narrative (Attachments B &C) are listed below:

Comment #1: Riparian Zone – As outlined in a letter from White Peterson dated January 15, 2025, the subject property is part of the Waterways Review District as it contains a riparian zone and is subject to the 25-foot riparian setback as noted in the PUD/CUP and the plat map for the Northwood PUD and Subdivision. The riparian zone and riparian setback are defined in the KMC as follows:

> *Riparian zone: The Waterways Review District includes all parcels containing lands that are within 25 feet of the mean high-water mark as measured horizontally from the mean high-water mark of any waterway. Waterways include the Big Wood River, Trail Creek, and Warm Springs Creek, and any and all channels having year-round or intermittent flow. These lands within 25 feet of the mean high-water mark area also known as the riparian zone that is regulated by the City of Ketchum.*
>
> *Riparian setback: A 25-foot setback measured from the mean high-water mark along the banks of waterways.*

Sheet L1 dated April 2, 2025, notes the 25-foot riparian setback correctly.
Required Action: No action required. This comment is for information only.

Comment #2: Riparian Restoration Required – KMC 17.88.050 A.2 states "When development is proposed in a riparian zone that is located or overlaps with the Floodplain Management Overlay Zoning District a floodplain development permit shall be issued and all riparian zone regulations shall be evaluated and are applicable". Development is defined by KMC 17.88.040.B.8 as "Any man-made change to improved or unimproved land, including subdivision, construction activity, alteration of the landscape (except for routine pruning and maintenance of riparian vegetation to benefit the health of the vegetation), its terrain contour or vegetation, including any construction of structures, establishment of a land use, alteration of an existing structure or land use, mining, dredging, filling, grading, paving, excavation or drilling operations, streambank stabilization, placement of manufactured or mobile homes, construction of fences, hedges, berms, walls, or storage of equipment or materials on a temporary or permanent basis".

As such, the proposed stream alteration work is considered "development" and therefore the floodplain development criteria apply. Criteria #1 outlined in KMC 17.88.050.E states "The proposal preserves or restores the inherent natural characteristics of the river, floodplain, and riparian zone, including riparian vegetation and wildlife habitat. Development does not alter river channel unless all stream alteration criteria for evaluation are also met". Additionally, 17.88.050 E.4 states "New or replacement planting and vegetation in the riparian zone shall include plantings that are low growing and have dense root systems for the purpose of stabilizing stream banks and repairing damage previously done to riparian vegetation. Examples of such plantings most commonly include: red osier dogwood, common chokecherry, serviceberry, elderberry, river birch, skunk bush sumac, Beb's willow, Drummond's willow, little wild rose, gooseberry, and honeysuckle. However, in rare instances the distance from the top-of-bank to the mean high water mark is significant and the native vegetation appropriate for the riparian zone are low growing, drought resistant grasses and shrubs. Replacement planting and vegetation shall be appropriate for the specific site conditions. Proposal does not include vegetation within the 25-foot riparian zone that is degraded, not natural, or which does not promote bank stability."

Staff does not believe the riparian restoration plan outlined on Sheet L1 to be sufficient for the following reasons:

- The proposed restoration area does not include the full length of the development proposed. Sheet C2 notes that sod damaged by construction will be repaired or replaced per Sheet L1, however, Sheet L1 does not have a specific callout for restoration of this type.
- The 5–7-foot buffer does not meet the 25-foot riparian setback requirement and does not provide for adequate bank stabilization.

- Sheet L1 notes that "shrubs may be pruned to 2 feet at landowner discretion". Within the 25' Riparian Zone all vegetation including planted shrubs should be allowed to grow to maturity. While pruning may retain a viewshed and encourage root growth; mature vegetation allows a better food source and cover for instream fish and a variety of native and migratory wildlife. In addition, the shade of mature shrubs creates microhabitats to encourage understory vegetation to flourish. The riparian area must have a variety of plant species and a high percent land cover of native flora to reduce soil erosion, increase water quality, and eventually provide a viable matrix of vegetative cover types to provide a restored wildlife habitat.
- The project narrative outlines a hydroseed method for seeding forbs and grasses, however, staff is not supportive of this approach due to limited success rates for riparian areas due to small seed size.
- The project narrative notes that the plantings may be from the list on Sheet L1 or as recommended by a landscape professional. A planting plan must be approved by the city and no revisions can be made to planting species, densities, or methods without approval of the city prior to installation.
- The proposed plan does not include provisions for temporary irrigation of planting during initial growing seasons.
- The proposed plan does not differentiate between revegetation of disturbed areas outside the 25-foot riparian area from areas within the riparian zone. These areas should be treated as separate and unique revegetation approaches. Development plans should include the following land area: All lands starting from the ordinary highwater line to the 25' riparian setback line not 5-7'(noted as stream side buffer zone) or 25'(noted as limited fertilizing zone). This should include the rock landscape feature adjacent to the back patio.

Required Action: Please resubmit a planting plan that encompasses the entire 25' riparian setback area to include: the area adjacent to the highwater line along the area disturbed with deep rooted bank stabilizing plants listed in code and a rehabilitation plan for the remaining 25' including no mow zones, native shrubs, and removing and reseeding hardscape. A revegetation plan should include number and name of native riparian species, planting timeframe, temporary irrigation and weed mitigation plans. Willow plantings along the bank shall include a minimum of two staggered rows at a distance of 5 foot on center.

Comment #4: No Mow Zone
Required Action: Please include a note within the restoration plan stating that the entire 25' riparian setback shall be maintained as a "no mow" area. It is important that volunteer species are allowed to flourish unmanaged to naturally fill in the riparian zone and restore it back to a more native habitat area.

ANALYSIS

Ketchum Municipal Code 17.88 Floodplain Management Overlay Zoning District

The Planning and Zoning Commission are to review the complete Floodplain Development Permit attached application and narrative. (Att. B &C). After review, the Commission then reviews the material against the criteria listed in this code section for compliance prior to making a decision to approve, approve with conditions, or deny the application. In addition, the Floodplain Development Permit application requires items 14-17 & 19 related to stream alterations be addressed within the application. These are also listed below in bold italic font for Planning and Zoning Commission's reference and review. Staff Comments for consideration are in plain text.

I. Floodplain Management Overlay Application requirements related to Stream Alterations:

14. (Stream alteration.) The proposal is shown to be a permanent solution and creates a stable situation. This standard appears to be met for the proposed riffle, barbs, and naturalizing the rock rip rap in the previous emergency work due to floodplain managers review letter stating this component as sufficient.

15. (Stream alteration.) No increase to the one percent (1%) annual chance flood elevation at any location in the community, based on hydrologic and hydraulic analysis performed in accordance with standard engineering practice and has been certified and submitted with supporting calculations and a No Rise Certificate, by a registered Idaho engineer.
The following Harmony Designs, the City Floodplain Manager, comments have not been addressed:
No Rise Certification and Hydraulic Model
5. The documentation for the 2D no rise analysis must follow the latest FEMA Guidance for Flood Risk Analysis and Mapping. The results of the proposed conditions model must be compared to the existing conditions model to show no increase to 0.00' at any existing or new evaluation line, which is a line of constant elevation in the 2D model and does not correspond to the 1D cross sections. Additionally, the water surface elevation grids should be compared (subtracted) for the existing and proposed conditions to ensure that the proposed development causes no local (point) rise on any existing insurable structure. Please provide a table that compares the existing and proposed 1% annual chance flood elevations along evaluation lines and a map of the elevation difference grid with existing structures shown.

6. Please provide a single map that shows the comparison of the velocity grids (subtracted) between the existing and proposed conditions.
(See Attachments D & I for Harmony Comments)

16. (Stream alteration.) The project has demonstrated No Adverse Impact or has demonstrated all impacts will be mitigated. The standard appears to be met.

17. (Stream alteration.) The recreational use of the stream including access along any and all public pedestrian/fisher's easements and the aesthetic beauty shall not be obstructed or interfered with by the proposed work. N/A -No easement is proposed to be altered

19. (Stream alteration.) The proposed work shall not be in conflict with the local public interest, including, but not limited to, property values, fish and wildlife habitat, aquatic life, recreation and access to public lands and waters, aesthetic beauty of the stream and water quality. The proposed work below the ordinary high-water mark does not appear to conflict with these public-interest factors, provided Harmony's no-rise comments are resolved. Strengthening the revegetation plan above the high-water line would better support fish and wildlife habitat, aquatic life, and water quality by reducing sedimentation, improving water quality, and providing higher-quality riparian habitat for fish, invertebrates, birds, reptiles, and other upland and instream wildlife.

II. 17.88.50.E. Criteria for evaluation of applications
Ketchum Municipal Code is listed in bold italic font below.

The criteria of floodplain development permit applications and riparian alteration permits shall be as follows:
1. The proposal preserves or restores the inherent natural characteristics of the river, floodplain, and riparian zone, including riparian vegetation and wildlife habitat. Development does not alter river channel unless all stream alteration criteria for evaluation are also met.
This stream stabilization work appears to be sufficient as to not alter this reach of the Big Wood River channel through sufficient engineering while protecting the property of the applicant. The floodplain rise needs to be addressed and the majority of area with the 25' riparian setback is currently mowed turf grass with a small trespass of the back patio landscaping. See above Summary for more detailed staff comment regarding 25' riparian setback.

2. No temporary construction activities, encroachment or other disturbance into the 25-foot riparian zone, including encroachment of below grade structures, shall be permitted, with the exception of approved stream stabilization work and restoration work associated with a riparian zone that is degraded.

The patio landscaping encroaches within the 25′ setback. A no mow zone would help to mitigate the disturbance into the 25′ riparian area. Restoration work at a section 5′ from the waters edge is being proposed.

3. No permanent development shall occur within the 25-foot riparian zone, with the exception of approved stream stabilization work and restoration work associated with permit issued under this title, or exceptions as described below: a-d... N/A No permanent development proposed excepting streambank stabilization.

4. New or replacement planting and vegetation in the riparian zone shall include plantings that are low growing and have dense root systems for the purpose of stabilizing stream banks and repairing damage previously done to riparian vegetation. Examples of such plantings most commonly include: red osier dogwood, common chokecherry, serviceberry, elderberry, river birch, skunk bush sumac, Beb's willow, Drummond's willow, little wild rose, gooseberry, and honeysuckle. However, in rare instances the distance from the top-of-bank to the mean high water mark is significant and the native vegetation appropriate for the riparian zone are low growing, drought resistant grasses and shrubs. Replacement planting and vegetation shall be appropriate for the specific site conditions. Proposal does not include vegetation within the 25-foot riparian zone that is degraded, not natural, or which does not promote bank stability.
The applicant proposes five native shrubs from the code-listed species and drought-tolerant grass seeding to help stabilize exposed topsoil and reduce weeds. Willows would be planted only within the riprap, riffle, and bank barb areas. The proposal also retains nonnative turf grass within the 25-foot riparian zone.

5. Landscaping and driveway plans to accommodate the function of the floodplain allow for sheet flooding.
n/a no driveway or landscape plan changes sufficient to alter sheet flooding

6. Floodwater carrying capacity is not diminished by the proposal.
See no rise comments by Harmony.

7. Impacts of the development on aquatic life, recreation, or water quality upstream, downstream or across the stream are not negative.
See no rise comments by Harmony. Otherwise the project engineer and our Floodplain Manager feel like project is sufficient to meet this criteria.

8. Building setback in excess of the minimum required along waterways is encouraged. An additional ten-foot building setback beyond the required 25-foot riparian zone is encouraged to provide for yards, decks and patios outside the 25-foot riparian zone.
Existing patio landscaping encroaches within the 25′ setback.

9. The top of the lowest floor of a building located in, or partially within, the SFHA shall be at or above the flood protection elevation (FPE).
n/a no structure beyond the stream stabilization structure is being proposed.

KMC 17.88.050g. Stream alterations.
(3) Assure that the flood carrying capacity within the altered or relocated portion of any watercourse is maintained. Require that maintenance is provided within the altered or relocated portion of said watercourse so that the flood carrying capacity is not diminished.
Harmony Design no-rise comments also apply here. Actions requested are: Provide a table that compares the existing and proposed 1% annual chance flood elevations along evaluation lines and a map of the elevation difference grid with existing structures shown. The applicant to provide a single map that shows the comparison of the velocity grids (subtracted) between the existing and proposed conditions. The applicant's engineer states the flood carrying capacity is maintained to existing conditions.

Suggested Motion options:
1) I move to continue the hearing for the Floodplain Development Permit Application P24-038 for 411 Northwood Way to a date certain to allow the applicant to present a revised revegetation plan within the 25' setback area to include the feedback from staff and also address the Floodplain Manager no-rise requirements.

2) I move to deny the Floodplain Development Permit Application P24-038 for 411 Northwood Way due to lack of conformance with Ketchum Municipal Code 17.88.50.E. 1, 2, & 4 primarily due to a lack of conformance with the 25' riparian setback requirements.

3) I move to approve the Floodplain Development Permit Application P24-038 for 411 Northwood Way with the following conditions 1-9 as suggested in the staff report and as added within deliberations.

Suggested Conditions of Approval:

1. *A 25' riparian restoration planting and maintenance and monitoring plan shall be approved by the Planning & Zoning Commission prior to start of instream work.*

2. *The following to be approved by the Floodplain Manager prior to commencement of any instream work: Provide a table that compares the existing and proposed 1% annual chance flood elevations along evaluation lines and a map of the elevation difference grid with existing structures shown.*

3. *The following to be approved by the Floodplain Manager prior to commencement of any instream work: Provide a single map that shows the comparison of the velocity grids (subtracted) between the existing and proposed conditions.*

4. *Riparian vegetation and other landscaping is maintained in perpetuity as shown on approved plans dated 3.12.2026 and the amended riparian planting plan to be approved per condition #1.*

5. *An as-built certification, with supporting documentation such as an as built survey of the project area and channel cross sections produced by a surveyor or engineer licensed in Idaho demonstrating that the project was constructed in accordance with the approved plans, shall be required to be submitted prior to occupancy of structure or upon completion of the proposed work.*

6. *Restoration of damaged riparian vegetation within riparian zone shall be required prior to completion of the proposed project.*

7. *Notice of work to commence shall be provided to all 300' adjoiners two weeks prior.*

8. *All federal and state permits shall be obtained and conditions followed.*

9. *Terms of approval. The term of a floodplain development permit shall be 12 months from the date that findings of fact, conclusions of law and decision are signed by the administrator or Commission, or upon appeal, the date the findings of fact, conclusions of law, and decision are signed by the appellate body.*

Attachments:
A. Application
B. Application Narrative 3.23.26
C. Bank Design Update 3.12.26
D. Floodplain Manager Review Comments 5.21.26
E. Applicant Response to Floodplain Manager Comments(Harmony)3.16.26
F. Letter to Applicant from City of Ketchum 1.27.2026
G. Letter from Applicant to City of Ketchum 3.27.2026
H. Planning Department Review Comment Letter 6.14.2024
I. Floodplain Manager (Harmony) Review Comment Letter 6.5.2024
J. City Response to Applicant 1.15.2025
K. Planning Review Comment Letter 11.20.25

City of Ketchum

ATTACHMENT A

OFFICIAL USE ONLY
File Number:
Date Received:
By:
Fee Paid:
Approved Date:
Denied Date:
By:

Floodplain Development Permit Application

Submit completed application and documentation to planningandzoning@ketchumidaho.org Or hand deliver to Ketchum City Hall, 191 5th St. W. Ketchum, ID If you have questions, please contact the Planning and Building Department at (208) 726-7801. To view the Development Standards, visit the City website at: www.ketchumidaho.org and click on Municipal Code. You will be contacted and invoiced once your application package is complete.

When is a Floodplain Development Permit Application required?

The Floodplain Management Overlay Zoning District boundaries are represented on the official zoning map of the City.

All land within the external boundary of the special flood hazard area (SFHA) and all parcels with any portion thereof affected by said SFHA shall be considered to be within the Floodplain Management Overlay Zoning district.

All land areas within the external boundary of the SFHA shall be considered to be within the floodplain subdistrict of the Floodplain Management Overlay Zoning District. The City may make necessary interpretations of the boundary based upon the recommendation of the City Engineer or other expert.

All land areas within the external boundary of the regulatory floodway shall be considered to be within the floodway subdistrict of the Floodplain Management Overlay Zoning District. The City may make necessary interpretations of the boundary based upon the recommendation of the City Engineer or other expert.

NOTE: This permit is required for all properties containing 100 year floodplain area and Riparian Setbacks

PROPERTY OWNER INFORMATION
Property Owner Name(s): **Marsupial Properties LLC**
Property Owner's Mailing Address: **1825 Ballard Canyon Rd. Slovang, CA 93463**
Phone:
Email: **geoff@rusack.com**
PROJECT INFORMATION
Project Name: **Marsupial Properties Channel Stabilization Project**
Project Representative's Name (main point of contact for project): **Nick Kraus, QRS Consulting LLC**
Project Representative's Phone: **208-342-0091**
Project Representative's Mailing Address: **3880 W Americana Terrace Suite 220, Boise, ID 83706**
Project Representative's Email: **nkraus@qrs-llc.com**
Architect's name, phone number, e-mail:
Landscape Architect's name, phone number, e-mail:
Environmental consultant's name, phone number, e-mail:
Engineer's name, phone number, e-mail: **nkraus@qrs-llc.com**
Project Address: **411 Northwood Way Ketchum, ID 83340**
Legal Description of parcel: **RESUB OF NORTHWOOD PUD LOT 2 LOT 1**
Lot Size: **1.21 acres**
Zoning District: **LR**
Overlay Zones – indicate all that apply: ☒ Floodplain ☒ Floodway ☒ Riparian Zone ☐ Avalanche ☐ Mountain
Brief description of project scope: The intent of this project is to repair the left side channel bank of the Big Wood River adjacent to the applicant's residence caused by two large runoff events in the spring of 2017 and 2023. During 2023 high water, significant erosion was occurring and an ACOE emergency permit # NWW-2023-00258 was obtained and authorized work performed. This project intends to enhance the emergency work done in 2023 by adding bank protection and riparian habitat elements.
Value of Project: $ 50,000
TYPE OF PROJECT – indicate all that apply:

☐ New Building in Floodplain	☐ Building Addition in Floodplain	☐ Emergency Streambank Stabilization / Stream Alteration	☐ Other. Please describe:
☐ Floodplain Development	☒ Streambank Stabilization / Stream Alteration		
PROPOSED SETBACKS – if project is a new building or an addition to an existing building			
Front:	Side:	Side:	Rear:
ADDITIONAL INFORMATION			
Will fill or excavation be required in floodplain, floodway or riparian zone? Yes ☒ No ☐			
If Yes, Amount in Cubic Yards: Fill: **265** CY Excavation: **135** CY			
Will Existing Trees or Vegetation be Removed? Yes ☐ No ☒			
Will new trees or vegetation be planted? Yes ☒ No ☐			

Applicant agrees in the event of a dispute concerning the interpretation or enforcement of the Floodplain Management Overlay Application, in which the City of Ketchum is the prevailing party, to pay reasonable attorney fees, including attorney fees on appeal, and expenses of the City of Ketchum. I, the undersigned, certify that all information submitted with and upon this application form is true and accurate to the best of my knowledge and belief.

Signature of Owner/Representative

4-8-24
Date

CO-PRESIDENT + MANAGER
MARSUPIAL PROPERTIES LLC

FLOODPLAIN MANAGEMENT OVERLAY EVALUATION STANDARDS

Please provide a narrative to address each of the criteria below.

Criteria for Evaluation of Applications: The criteria of floodplain development permit applications shall be as follows:

1. The proposal preserves or restores the inherent natural characteristics of the river, floodplain, and Riparian Zone, including riparian vegetation and wildlife habitat. Development does not alter river channel unless all stream alteration criteria for evaluation are also met.
2. No temporary construction activities, encroachment, or other disturbance into the twenty-five foot (25') Riparian Zone, including encroachment of below grade structures, shall be permitted, except for approved stream stabilization work and restoration work associated with a riparian zone that is degraded.
3. No permanent development shall occur within the twenty-five foot (25') Riparian Zone, except for approved stream stabilization work and restoration work associated with permit issued under this title, or exceptions as described below:
    a. Access to a property where no other primary access is available.
    b. Emergency access required by the Fire Department.
    c. A single defined pathways or staircases for the purpose of providing access to the river channel and in order to mitigate multiple undefined social paths.
    d. Development by the City of Ketchum
4. New or replacement planting and vegetation in the Riparian Zone shall include plantings that are low growing and have dense root systems for the purpose of stabilizing stream banks and repairing damage previously done to riparian vegetation. Examples of such plantings most commonly include red osier dogwood, common chokecherry, serviceberry, elderberry, river birch, skunk bush sumac, Beb's willow, Drummond's willow, little wild rose, gooseberry, and honeysuckle. However, in rare instances the distance from the top-of-bank to the mean high-water mark is significant and the native vegetation appropriate for the Riparian Zone are low growing, drought resistant grasses and shrubs. Replacement planting and vegetation shall be appropriate for the specific site conditions. Proposal does not include vegetation within the twenty-five foot (25') Riparian Zone that is degraded, not natural, or which does not promote bank stability.
5. Landscaping and driveway plans to accommodate the function of the floodplain allow for sheet flooding. Surface drainage is controlled and shall not adversely impact adjacent properties including driveways drained away from paved roadways. Culvert(s) under driveways may be required. Landscaping berms shall be designed to not dam or otherwise obstruct floodwaters or divert same onto roads or other public pathways.
6. Floodwater carrying capacity is not diminished by the proposal.
7. Impacts of the development on aquatic life, recreation, or water quality upstream, downstream or across the stream are not negative.
8. Building setback in excess of the minimum required along waterways is encouraged. An additional ten-foot (10') building setback beyond the required twenty-five foot (25') Riparian Zone is encouraged to provide for yards, decks and patios outside the twenty five foot (25') Riparian Zone.
9. The top of the lowest floor of a building located in, or partially within, the SFHA shall be at or above the Flood Protection Elevation (FPE). A building is considered to be partially within the SFHA if any portion of the building or appendage of the building, such as footings, attached decks, posts for upper story decks, are located within the SFHA. See section 17.88.060, figures 1 and 2 of this chapter to reference construction details. See Chapter 17.08 of this title for definition of "lowest floor."
    a. In the SFHA where Base Flood Elevations (BFEs) have been determined, the FPE shall be twenty-four inches (24") above the BFE for the subject property; twenty-four inches (24") or two (2) feet is the required freeboard in Ketchum city limits.
    b. In the SFHA where no BFE has been established, the FPE shall be at least two (2) feet above the highest adjacent grade.
10. The backfill used around the foundation in the SFHA floodplain shall provide a reasonable transition to existing grade but shall not be used to fill the parcel to any greater extent.
    a. Compensatory storage shall be required for any fill placed within the floodplain.
    b. A CLOMR-F shall be obtained prior to placement of any additional fill in the floodplain.
11. All new buildings located partially or wholly within the SFHA shall be constructed on foundations that are designed by a licensed professional engineer.

12. Driveways shall comply with City of Ketchum street standards; access for emergency vehicles has been adequately provided for by limiting flood depths in all roadways to one foot (1-ft) or less during the 1% annual chance event.
13. Landscaping or revegetation shall conceal cuts and fills required for driveways and other elements of the development.
14. (Stream alteration.) The proposal is shown to be a permanent solution and creates a stable situation.
15. (Stream alteration.) No increase to the one percent (1%) annual chance flood elevation at any location in the community, based on hydrologic and hydraulic analysis performed in accordance with standard engineering practice and has been certified and submitted with supporting calculations and a No Rise Certificate, by a registered Idaho engineer.
16. (Stream alteration.) The project has demonstrated No Adverse Impact or has demonstrated all impacts will be mitigated.
17. (Stream alteration.) The recreational use of the stream including access along any and all public pedestrian/fisher's easements and the aesthetic beauty shall not be obstructed or interfered with by the proposed work.
18. (Stream alteration.) Fish habitat shall be maintained or improved as a result of the work proposed.
19. (Stream alteration.) The proposed work shall not be in conflict with the local public interest, including, but not limited to, property values, fish and wildlife habitat, aquatic life, recreation and access to public lands and waters, aesthetic beauty of the stream and water quality.
20. (Stream alteration.) The work proposed is for the protection of the public health, safety and/or welfare such as public schools, sewage treatment plant, water and sewer distribution lines and bridges providing particularly limited or sole access to areas of habitation.
21. (Wetlands) Where development is proposed that impacts any wetland the first priority shall be to move development from the wetland area. Mitigation strategies shall be proposed at time of application that replace the impacted wetland area with an equal amount and quality of new wetland area or riparian habitat improvement.

APPLICATION CHECKLIST

Please utilize and submit the checklist on the following pages to ensure a complete application.

Floodplain management overlay application certification of completeness is based on submittal of all applicable items on this checklist.

Project name: Marsupial Properties Channel Stabilizati

Reviewed by: _____

DOCUMENTS

- ☑ One (1) digital copy of all application materials
- ☑ Application form
- ☑ Evaluation criteria narrative
- ☑ Description of proposed development
- ☑ Specifications for building construction and materials, flood proofing, filling, grading, dredging, channel improvement/changes and utilities
- N/A Elevation and/or flood proofing certification prepared by a professional engineer for existing and proposed residential and nonresidential structures located partially or wholly in the regulatory floodplain. Said floodproofing methods shall meet the criteria in subsection 17.88.060.B of the Ketchum Municipal Code.
- N/A Copy of letter of map amendment based on fill (LOMA-F) application for any proposed fill in the floodplain. LOMA-F approval shall be obtained from FEMA prior to issuance of a floodplain development permit.
- ☑ Signed, notarized, original copy of the Acknowledgement of Floodplain Management Overlay District and Waterways Design Review District Affidavit.

SITE SURVEY OF EXISTING CONDITIONS (prepared and stamped by a licensed engineer or surveyor) – REQUIRED FOR NEW BUILDINGS OR ADDITIONS TO BUILDINGS IN THE FLOODPLAIN AND ANY WORK WITHIN THE FLOODWAY

- ☑ Exterior boundary lines of the property together with dimensions
- ☑ Topographic survey of the real property at a minimum of one (1) foot contour intervals, significant hillsides may be a minimum of ten (10) foot contour intervals
- ☑ Location of any existing dwelling units, other structures, fill, storage of materials, drainage facilities and all improved areas (pavement) with dimensions thereof showing the setback of each structure from the nearest property line
- ☑ Location of existing channels and ditches and other significant natural features, boundaries of floodway and floodplain, including Base Flood Elevation (BFE) and other site specific information from the studies referred to in Ketchum Municipal Code, subsection 17.88.040.A.3
- ☑ Location and elevations of adjacent streets, water supply and sewer lines, including private wells and/or septic systems
- N/A Elevation of the lowest floor (including basement) of all structures existing and proposed partially or wholly located in the one percent (1%) annual chance floodplain, including elevation to which any structure has been or will be floodproofed
- ☑ Identification of the riparian zone and the "mean high water mark," as defined in Ketchum Municipal Code
- ☑ Location of previous stream alterations upstream, downstream and along both banks from subject lot
- ☑ Location of drainage ways, intermittent and year-round, including potential overflow channels or channel movement
- ☑ Location and dimensions of easements, private and public, within and adjacent to the proposed project together with the purpose thereof
- ☑ Location of all existing trees to be preserved and significant trees to be removed
- ☑ Indication of any zoning district overlay which affects the property (floodplain, mountain overlay or avalanche)
- ☑ Location of existing structures on adjacent properties

SITE PLAN – REQUIRED FOR ALL PROJECTS.

☑ Vicinity map

☑ Proposed excavation or land fill including resulting slope grades for the building pad(s), driveways and any other element of the proposed development where excavation or fill will take place

N/A Drainage plan including offsite improvements such as borrow ditches and culverts and including a plan for on- and off-site improvements to provide for unobstructed conveyance of floodwaters

N/A Location of on-site parking spaces and access thereto, including the dimensions of the spaces and the width and length of access and curb cuts

N/A Location and dimensions of snow storage areas

N/A Location of dumpster and/or garbage and recycling can storage areas, including the dimensions and proposed fencing or other screening

N/A Location and type of any electrical power transformers, switches and/or sectors

N/A Location and type of all heating, ventilation, air conditioning and other mechanical units

N/A Drip line of all buildings

N/A Percentage of the lot coverage by proposed building and parking areas together with the total square footage of the parcel of property

N/A Location of all proposed structures (buildings) and all improved areas (pavement, sidewalk) with dimensions thereof showing the setback of each structure from the nearest property line

☑ Designation of the zoning district in which the project is located

☑ Location of any zoning district boundary line within the proposed project or the immediate vicinity thereof

N/A For any building in the floodplain with an area below the lowest floor that is below the base flood elevation and has a ceiling height of five feet (5') or greater, the building owner shall sign a non-conversion agreement, that shall run with the property, promising not to improve, finish or otherwise convert the area below the lowest floor to living area and granting the city the right to inspect the enclosed area at its discretion. Such agreement shall be recorded at Blaine County's recorder's office

ARCHITECTURAL PLANS – REQUIRED FOR NEW BUILDINGS OR ADDITIONS TO EXISTING BUILDINGS

N/A Floor plans of all floors at not less than one-eighth (1/8) scale

N/A All exterior elevations

N/A Roof plan including direction of snow sliding and snow clips if applicable. Location and type of all mechanical equipment and rooftop appurtenances

N/A Cross-section(s) of the property and proposed building adequately establishing the natural grade, finished grade, slope of land, slope of proposed accesses and grades to all public rights-of-way

N/A Location and type (cut sheets) of all exterior lighting

N/A Model or computer simulation renderings, if required at pre-application design review meeting

LANDSCAPE PLAN – REQUIRED FOR ANY PROJECT PROPOSING TO ALTER VEGETATION IN THE RIPARIAN ZONE OR SPECIAL FLOOD HAZARD AREA

☑ All existing vegetation over 2 inches in caliper, including size and species

☑ Proposed landscaping of the project including types, quantities and sizes of trees, shrubs, ground cover and other vegetation

N/A Proposed landscaping or other improvements within any public rights-of-way

N/A Location, type (materials and colors) and height of walls or fences

N/A Location of parking areas

N/A Location of vehicular and pedestrian circulation patterns, easements and proposed improvements with regard thereto

N/A Irrigation system for landscaping

N/A Drainage plan including off-site improvements

STREAM ALTERATIONS / STREAMBANK STABILIZATION

☑ Copies of the Joint Application for Permits submitted to the U.S. army corps of engineers (USACE) and Idaho department of water resources (IDWR). Please note, USACE and IDWR approvals shall be obtained prior to issuance of a stream alteration permit.

☑ Copy of the USACE permit approval. Pending

☑ Copy of the IDWR permit approval. Pending

☑ Cross section of proposed work

- ☑ Length of stream to be worked, type of work to be done, type of equipment to be used and starting and completion dates of work
- ☑ A valley cross section showing stream channel, floodway limits, elevations of adjacent land areas, Special Flood Hazard Area boundary, floodway boundary, existing Mean High Water mark, proposed Mean High Water mark, Riparian Zone regulated by the City of Ketchum, proposed excavation, proposed fill. A profile showing the slope of the bottom of the channel or flow line of the stream may be required upon review of all other material submitted.
- ☑ For any work proposed to occur in the regulatory floodway: A no net rise certificate, including supporting calculations, prepared and stamped by an Idaho registered professional hydraulic engineer
- ☑ For any work proposed to occur in the floodway: HEC-RAS model

NO ADVERSE IMPACT STATEMENT – WHERE APPLICABLE

- ☑ No Adverse Impact Statement
    - See definition of "No Adverse Impact" in section 17.08.020 of Ketchum Municipal Code.

City of Ketchum

ATTACHMENT B

Marsupial Properties Channel Stabilization Project

Design Report

3-23-26

Prepared For: **Marsupial Properties LLC**

Prepared By: **QRS Consulting LLC**

March 23, 2026

Table of Contents

A. Background

The project as proposed in this application is intended to provide a long-term solution in response to significant riverbank scouring that has been occurring since the 2017 runoff event redirected a significant portion of the flow in the main channel of the Big Wood River to a side channel adjacent to the subject property. The subject property is located at 411 Northwood Way in Ketchum and is owned by Marsupial Properties LLC (the applicant). A substantial portion of the bank eroded away during spring of 2017, placing the applicant's residence and associated property improvements at significant risk of damage from future high-water events (See Photo 1 below). Bank erosion from 2017 also extends upstream onto the neighboring property at 421 Northwood Way owned by William and Cheryl Howard (the Howard Property).

During the spring of 2023, a second high water event eroded additional frontage at 411 Northwood way and 421 Northwood way. The 2023 event again put private property improvements at risk. Therefore, emergency permits were requested from the City of Ketchum (the City) and U.S. Army Corps of Engineers (the Corps) while the event was ongoing. The City issued an approval under Project #23-030 and the Corps issued a Nationwide Concurrence Permit under NWW-2023-00258. Copies of both permits are provided in Exhibit D.

Work was completed under the emergency authorization in May of 2023 (See Photo 2 below).

Photo 1 - *Marsupial Properties (Fall 2019)*

Photo 2 - *Marsupial Properties (Spring 2023)*

The intent of the proposed project is to augment and improve upon the previously completed emergency work by adding in-stream and riparian habitat elements and provide for additional private infrastructure improvements beyond the extents of the emergency stabilization effort. The proposed project reach is located on a side channel to the Big Wood River. Historically, this

side channel has flowed year-round but has constituted only a small percentage of the total flow in the river. However, due to continued erosion and widening along its eastern (left) bank, the side channel is conveying a larger percentage of total river flows and runs the risk of becoming the primary Big Wood River channel through the project reach. Should this occur, both the applicant's property and the properties up and downstream adjacent to the side channel will be at a much greater risk from future adverse flooding impacts.

The treatments proposed as a part of this project are intended to stabilize the left bank of the side channel to protect existing private property improvements and to stabilize the side channel configuration and flow split ratio to reduce the risk that the side channel continues to capture a greater percentage of the total river flow over time. The project also includes in-stream and riparian habitat improvement elements to soften the visual and hydraulic impacts of the 2023 emergency project installation.

The project design has been developed in coordination between the applicant and the upstream property owners (the Howard Property). The project has also been designed to impart no net negative impact to the downstream property at 401 Northwood Way owned by Robert and Sandra Swan (the Swan Property).

B. Project Components

1. Constructed Riffle

During the 2017 high water event, a significant amount of mobile large wood created a partial blockage of the main channel of the Big Wood River adjacent to the project reach. This partial blockage resulted in a higher percentage of overall river flow accessing the side channel, leading to significant side channel erosion and widening through the project reach. The eroded stream bed and bank material were then deposited adjacent to the downstream Swan Property. The erosion and channel widening adjacent to the Howard Property and the applicant's property, and the significant deposition along the Swan's property has led to an increase in flood risk to each of the residences at a given high-water event. Due to the presence of the large wood blockage in the main river channel and the continued degradation of the project side channel, it is apparent that without intervention it is likely that the current side channel will continue to erode. Over time, it is also probable that the side channel will become the primary conveyance channel through the project reach.

To reduce the risk of further increases in side channel conveyance, channel widening, and channel down cutting, a constructed riffle is proposed at the entrance to the side channel to stabilize the channel at the current flow split configuration. Analysis of the project reach also demonstrated that side channel scour potential for a given in-stream flow rate is greater than the pre-2017 condition. Therefore, an additional benefit of the constructed riffle is to mitigate for the increased risk of bed scour, which would ultimately lead to further bank over-steepening and

subsequent erosion. Unmitigated ongoing erosion is also likely to increase sediment deposition adjacent to the Swan Property, increasing the potential for flood impacts to their property.

The proposed treatment is not intended to restore the side channel cross section to the pre-2017 situation, but to provide long term stability to the currently unstable condition. The riffle structure will span the entire width of the channel and be composed of native channel material combined with larger diameter imported rock to provide erosion resistance. The riffle has been designed to match existing side channel elevations and is intended to have no adverse impact to flood elevations or in-stream velocity. The imported rock will be sourced locally and be granitic in origin to match the nature and appearance of the existing bed material to the extent practical.

The riffle is intended to be constructed using equal quantities of native channel substrate and imported rock. The matrix gradation for the riffle is provided in the drawings. Construction of the riffle will require over excavation of the river channel before the riffle can be built to match existing channel grade. Riffle construction will generally be completed as follows:

1. The existing channel subgrade will be excavated to the design elevations provided in the drawings.
2. A layer of larger diameter imported rock sized for stability during high water events will be placed on the exposed subgrade and spaced sufficiently to provide a minimum 50 percent void area.
3. Void spaces between the imported rocks will be filled with native channel substrate and track-walked into place with an excavator.
4. The substrate will be pressure washed into the void areas to ensure material consolidation.
5. Additional layers of rock/substrate will be placed as necessary to achieve a final finished grade matching the pre-project channel elevation.
6. Excess channel substrate material will be removed and disposed of off-site.
7. The bank areas of the riffle will be covered with topsoil and revegetated above the ordinary highwater mark per the details provided in the Drawings.

2. Bank Protection

This treatment will involve restoring the eroded left bank of the side channel by re-grading from the approximate existing eroded top bank of river elevation down to the existing channel bed at a maximum of a 2:1 side slope. In no case shall bank re-grading extend riverward of the approximate bank location prior to the 2017 runoff event. The bank re-grading effort will be accomplished in a similar manner to the constructed riffle in that it will be a mix of imported rock and native channel material. The fill material placed under the emergency permit will also be mixed with native channel substrate. This will provide a graded matrix that is resistant to erosion but will provide a visual perspective and flow characteristics that are generally similar to the

current riverbank condition as well as allowing soil conditions more suitable for riparian planting. The matrix gradation for the bank protection material is provided in the Drawings.

Disturbed areas above the ordinary high-water mark will be covered with an 8-inch thickness of imported topsoil and seeded with grass to match the adjacent existing conditions. Live willow cuttings will be planted at intervals in the rock/substrate bank stabilization material as shown in the Drawings to provide habitat benefits and further long-term stabilization benefits. Container plantings will be installed in the riparian setback area on the subject property as depicted on Sheet L1 of the Drawings. Construction of the bank protection will involve excavation and bank reshaping to ensure that the graded material is keyed into the native subgrade to provide long term stability. The work will be accomplished with the use of an excavator from outside of the side channel to the extent practical.

3. Rock/Wood Bank Barb

The third proposed treatment is the installation of two rock/wood barbs. The intent of these structures is to direct water away from the eroded banks and back towards the center of the side channel. Barbs are an effective way of reducing near bank flow velocity and shear stress at a channel bend. The barbs are a low-reveal structure that will be completely submerged at bank full and larger events. Large wood is incorporated into each barb to provide for a more natural looking structure and to provide limited habitat benefits. The rock used for barb construction will be from the same rock source used to construct the previously referenced riffle and bank protection elements. Design details and constraints are provided in the Drawings.

4. Relocate Woody Debris from Adjacent Main Channel

A significant amount of large woody debris has accumulated within the main channel of the Big Wood River since the 2017 runoff event. This debris is contributing to the increased flood risk to the applicant's property and the properties of the adjoining upstream and downstream parcels as they prevent the main river channel from conveying the bulk of the in-stream flow, which was the normal condition prior to 2017. This situation forces the project side channel to convey a disproportionate percentage of the river. The relocation of this debris in the main channel will help re-balance the flow split to a condition more suited to the existing cross-sectional areas of both channels and reduce the flood damage risk to the applicant's property and to the neighboring properties.

The woody debris will be removed from the main channel and placed in the adjacent floodplain areas between the river channels. Relocation of the woody debris to the floodplain will provide riparian habitat improvements and increased channel complexity during higher flow events but will reduce the risk of the side channel becoming the primary flow conveyance channel over time.

C. Quantities

Estimated project excavation and fill quantities are provided in Table 1. Most of the proposed work will take place at or below the elevation of the existing ordinary high-water mark. Net fill quantities for the project as compared to the pre-2017 condition totals zero cubic yards.

Table 1 – Project Quantities

Project Component	River Length (ft)	Plan Area (sf)	Total Excavation (CY)	Total Fill (CY)	Fill Below OHWM (CY)
Riffle	35	1000	120	120	120
Bank Protection	220	1050	0	120	120
Rock/Wood Barb	30	200	0	25	25
Woody Debris Relocation	n/a	1500	25	0	0
Temporary Bypass	20	550	0	50	50
Totals	305	4300	145	315	315
Totals (Excluding Temporary Work)	285	3750	145	265	265

Notes:

Constructed Riffle/Bank Protection: Excess channel substrate developed due to importation of larger diameter rock will be exported off-site as necessary to maintain a no net fill situation with respect to the estimated condition prior to 2017.

Rock/Wood Barb: Excess channel substrate developed due to barb placement will be exported off-site as necessary to maintain a no-net fill situation with respect to the estimated condition prior to 2017.

D. Water Bypass

All construction activity is to be conducted in a relatively dry environment outside of actively flowing water. A temporary coffer dam will be installed at the upstream end of the side channel prior to beginning in-stream work to divert all of the flow in the side channel down the Big Wood River main channel. The placement of the coffer dam will allow adequate visual inspection of the work to ensure that the intent of the design drawings is met and will also limit the environmental risk of downstream sedimentation impacts related to the construction process. The coffer dam will be constructed of approximately one cubic yard dewatering bags filled with native channel substrate and faced with minimum 6-mil thickness Polyethylene sheeting to reduce bypass seepage to the extent practical.

All coffer dam materials will be removed after construction activities have been completed, and the area will be restored to pre-existing condition.

E. Hydraulic Modeling

The proposed project is located within a Special Flood Hazard Area as depicted on FEMA Flood Insurance Rate Map (FIRM) 16013C0453E dated November 26, 2010 (Exhibit A), with most of the proposed construction taking place within the regulatory floodway. Per City of Ketchum Code 17.88.040.C.1, "Encroachments in the floodway, including fill, new construction, substantial improvements, and other development are prohibited unless certification, with supporting calculations, by a registered professional hydraulic engineer is provided demonstrating that encroachments shall not result in any increase in flood levels during the base flood discharge. . . ."

As the proposed project is intended to be a no-net fill situation with respect to the conditions prior to the 2017 runoff event and channel roughness will remain similar to the existing condition, the project will not result in any increase in flood levels or flood flow velocity during a base flood discharge. A No-Rise Certification is provided in Exhibit B.

QRS Consulting created a two dimensional (2D) hydraulic model of the proposed project reach using HEC-RAS 6.6 to estimate flow velocities for a stability analysis of the project components. It was decided to utilize a 2D flood model in place of the one-dimensional (1D) model used by FEMA to better reflect the more complicated hydraulic characteristics expected through the project reach due to the split flow conditions present, and to better analyze near-bank scour potential for bank protection design. The hydraulic model extends from approximately the bridge crossing at Adams Gulch Road upstream of the project (FEMA Cross Section ER) to the bridge crossing at Warm Springs Road (FEMA Cross Section EK) downstream of the project. The model terrain file was created using publicly available LiDAR data from 2024 with a 1-meter cell size. The Manning's 'n' roughness coefficients utilized in the current effective FEMA flood model were reproduced for the development of the 2D model. Output exhibits from the 2D model are provided in Exhibit C.

The existing conditions base flood elevations (BFE's) as reported by the 2D corrected effective model were compared to the cross-section elevations reported in the corresponding FEMA FIRM panel. The FEMA BFE's were typically at or somewhat higher in elevation than the corresponding cross sections in the 2D corrected effective model. However, as river channel bathymetry has changed significantly from the conditions underlying the current effective flood maps and the 2D hydraulic model provides a more accurate representation of the complex flow dynamics through the project reach, based on previous experience on projects of a similar nature, it is our opinion that the 2D model provides a reasonable representation of existing channel hydraulic conditions.

F. Revegetation Plan

Project revegetation will take place immediately adjacent to the riverbank along the project reach and within landscaped areas outside of the bank stabilization zone where vegetation is primarily composed of lawn grass. Specific revegetation requirements are provided on Sheet L1 of the Drawings.

1. Planting Methods and Coverage

Reclaimed riverbank areas will be covered with a minimum 8-inch thickness of topsoil and graded to provide an adequate seed bed. Grasses will be planted by the hydro seed method at a minimum rate of 25 lb/acre or as recommended by a local qualified landscape professional. The grass varieties to be planted are shown on Sheet L1 of the Drawings.

Container plantings will be minimum 5-gallon container nursery stock and placed within the bank stabilization area and willow cuttings will be planted at the ordinary highwater mark at the locations shown on Sheet L1 of the Drawings.

G. Monitoring and Maintenance

The project will be monitored for a period of three (3) years from the date of completion. The applicant agrees to project monitoring if the City of Ketchum also agrees to allow ongoing maintenance to address any high-water damage or project deficiencies found during the monitoring period under the existing permit and without initiation of a new permit process.

Monitoring will consist of a site inspection and qualitative assessment by a qualified professional. Items to be monitored include:

1. Bank stabilization integrity.
2. Rock/wood barb integrity.
3. Channel riffle integrity.
4. Channel and bank stability through the project reach.
5. Debris accumulation.
6. Establishment of vegetation with a target survival 80 percent after 3 years.

H. Construction Drawings

A set of design drawings stamped by a professional engineer licensed in the State of Idaho are included with this application. The drawings contain the following six sheets:

C1: Title Sheet
C2: Site Plan
C3: Profile & Cross Sections
C4: Details
C5: Dewatering/Erosion Control Plan
L1: Landscape Plan

I. Permits

The following permits were issued for the emergency repair work completed in May 2023.

1. City of Ketchum Project #23-030.
2. U.S. Army Corps of Engineers Nationwide Permit No. 13 (NWW-2023-00258).

Copies of both permits are provided in Exhibit D. Concurrently with this application, a Joint Permit Application was submitted to both the Corps and Idaho Department of Water Resources for the proposed work described in this narrative. The permit approval from the Corps is provided in Exhibit E and the Idaho Department of Water Resources Stream Channel Alteration Permit is pending.

Exhibit A – FEMA FIRM Panel

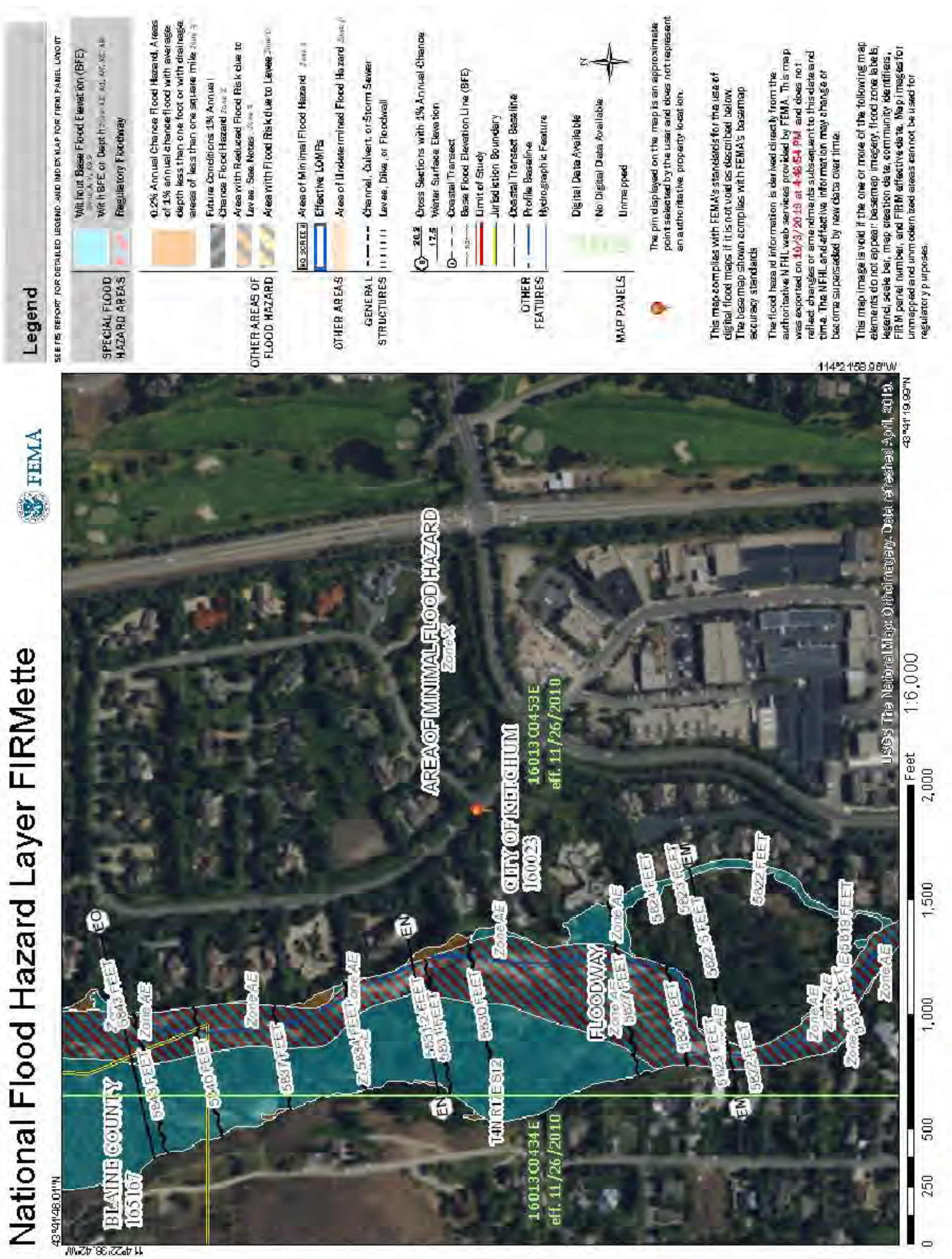


Exhibit B – No Rise Certification

March 6, 2024

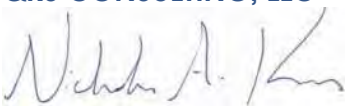
City of Ketchum Planning and Building
Attn: Adam Crutcher, Associate Planner
191 West 5th Street
Ketchum, ID 83340

Re: Marsupial Properties Channel Stabilization Project
Engineering No-Rise Certification

This is to certify that I am a duly qualified engineer licensed to practice in the State of Idaho.

It is to further certify that the analysis completed by QRS Consulting verifies that the Marsupial Properties Channel Stabilization Project will not impact the 100-year flood elevations, floodway elevations and floodway widths on along the Big Wood River at published sections in the Flood Insurance Study for the City of Ketchum, Idaho dated November 26, 2010 and will not impact the 100-year flood elevations, floodway elevations, and floodway widths at unpublished cross-sections in the vicinity of the proposed project.

Sincerely,
QRS CONSULTING, LLC



Nicholas A. Kraus, PE
Manager

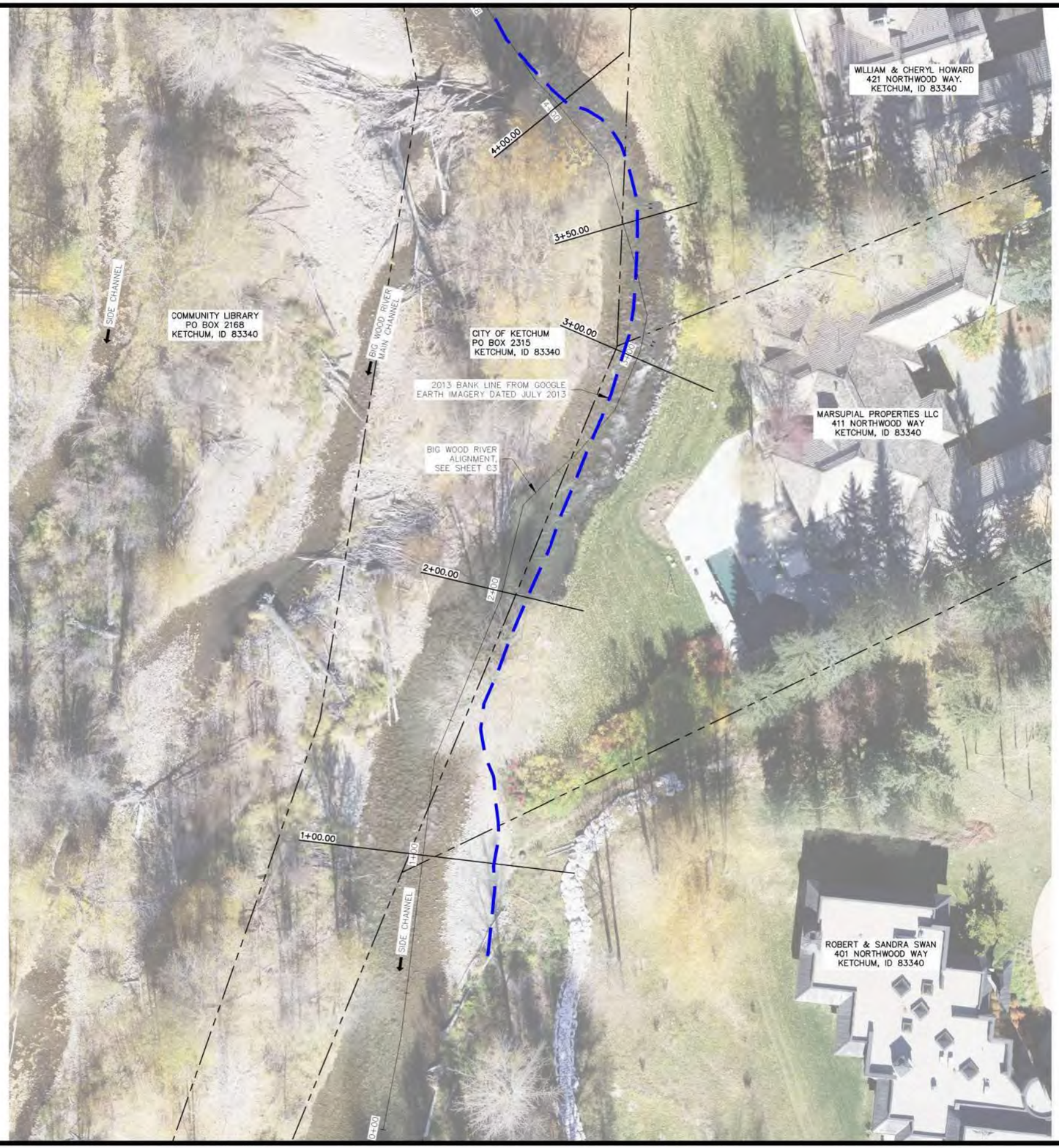
Exhibit C – HEC-RAS 2D Hydraulic Model Output

at the upstream project extents, downstream project extents, and through the project reach is provided in Exhibit A.

Comment #6: Updated existing and proposed conditions hydraulic model output depicting water surface velocities through the project reach are provided in Exhibit A.

Comment #7: An approximation of the pre-2017 channel bank location is depicted in Exhibit A. This location was estimated by overlaying georeferenced aerial imagery from 2013 and 2016 onto the Drawings. No additional riprap is being placed along the length of the 2023 emergency project. However, the project does intend to intermix native channel material into the existing riprap to improve revegetation success and to better visually blend with the native material in the adjacent river channel.

3-16-26



N

GRAPHIC SCALE

0 20 40

(IN FEET)
1 INCH = 20 FT.

LEGEND

TOP BANK OF RIVER 2013

PROPERTY LINE

NOTES

1. AERIAL IMAGERY IS FROM DRONE FLIGHT PERFORMED BY QUADRANT CONSULTING ON OCTOBER 23, 2023

AVERAGE VELOCITY		
STATION	EXISTING CONDITIONS FT/S	PROPOSED CONDITIONS FT/S
1+00	4.9	4.9
2+00	6.1	5.9
3+00	6.9	7.2
3+50	6.8	6.9
4+00	5.1	5.1

CHANNEL VELOCITY NOTES

1. AS VERIFIED IN THE TABLE, THE PROPOSED PROJECT DOES NOT INCREASE CHANNEL VELOCITY AT THE DOWNSTREAM PROPERTY LINE FOR 411 NORTHWOOD WAY.

2. AVERAGE CHANNEL VELOCITY AT STATIONS 3+00 AND 3+50 SHOW AN INCREASE BETWEEN EXISTING AND PROPOSED CONDITIONS; THIS VELOCITY INCREASE IS ATTRIBUTABLE TO LOCALIZED EFFECTS FROM THE PROPOSED BANK BARBS AT THOSE LOCATIONS.

QRS consulting
Quadrant + River Structures

MARSUPIAL PROPERTIES STABILIZATION
MODEL RESULTS EXHIBIT – PLAN VIEW
KETCHUM IDAHO

PROJECT NO. 831-01

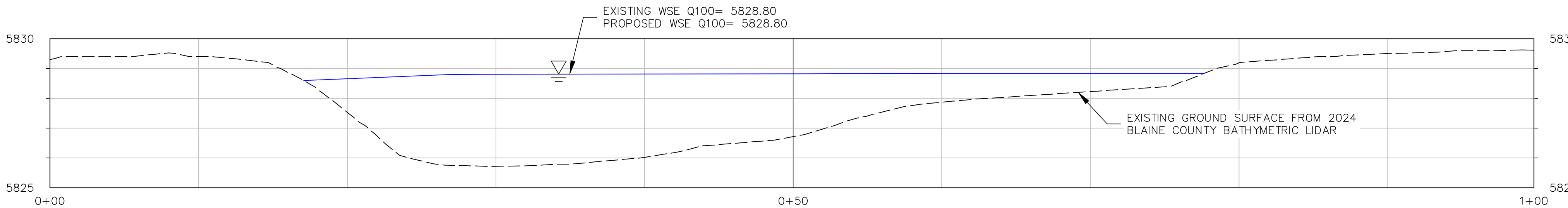
SCALE: 1" = 20'

DESIGNED BY: NK
DRAWN BY: KD
CHECKED BY: NK
PLOT DATE: 2/26/2026

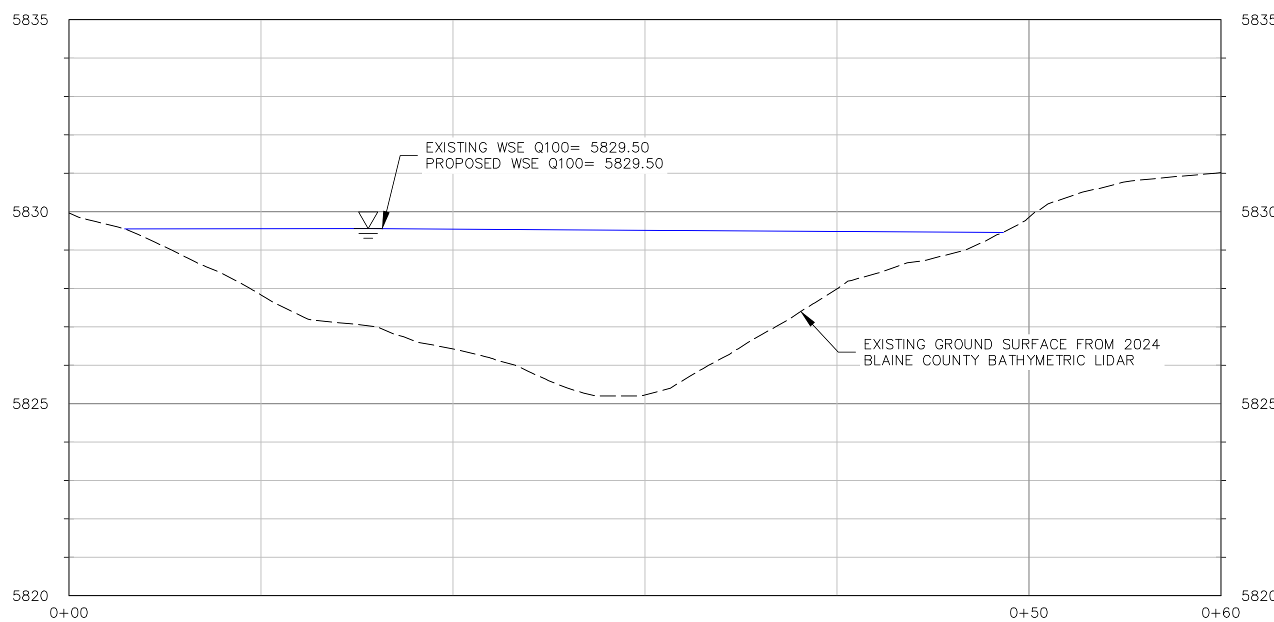
NO.	DATE	BY	REVISION

SHEET
1 OF 4

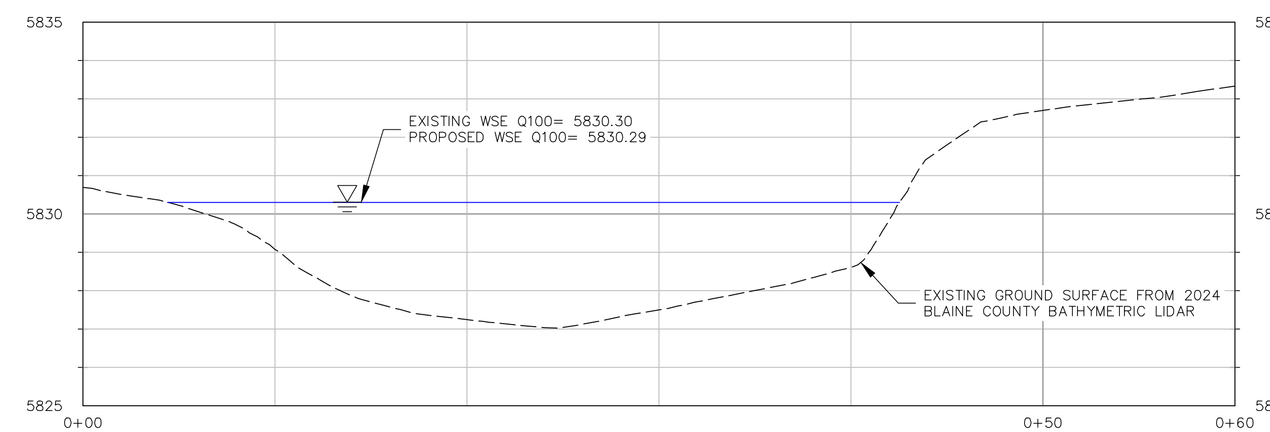
USER: KARL LOCATION: S:\1_PROJECTS\MARSUPIAL PROPERTIES 2025\DESIGN\ BANK DESIGN_1-27-2025 - STANDARD\DESIGN BANK DESIGN_05-26-2026 RIE FOR RIE #4\ RESULTS.DWG



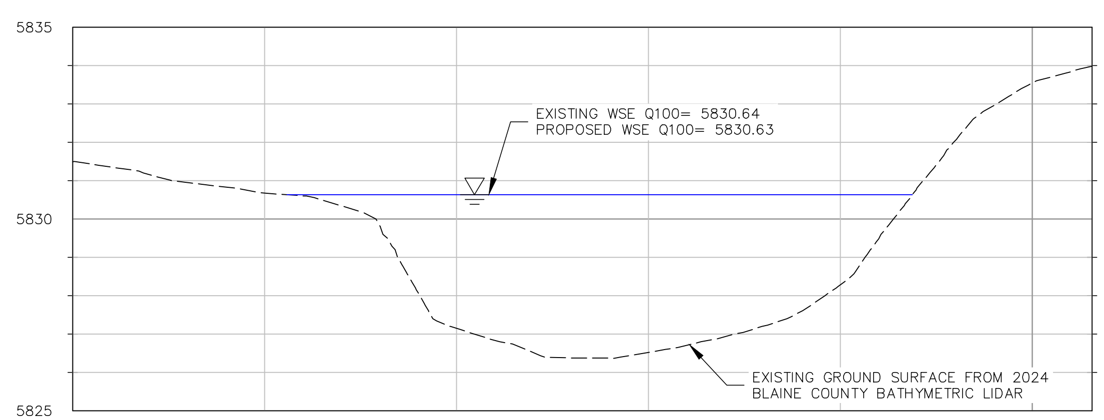
1+00 PROFILE



2+00 PROFILE



3+00 PROFILE



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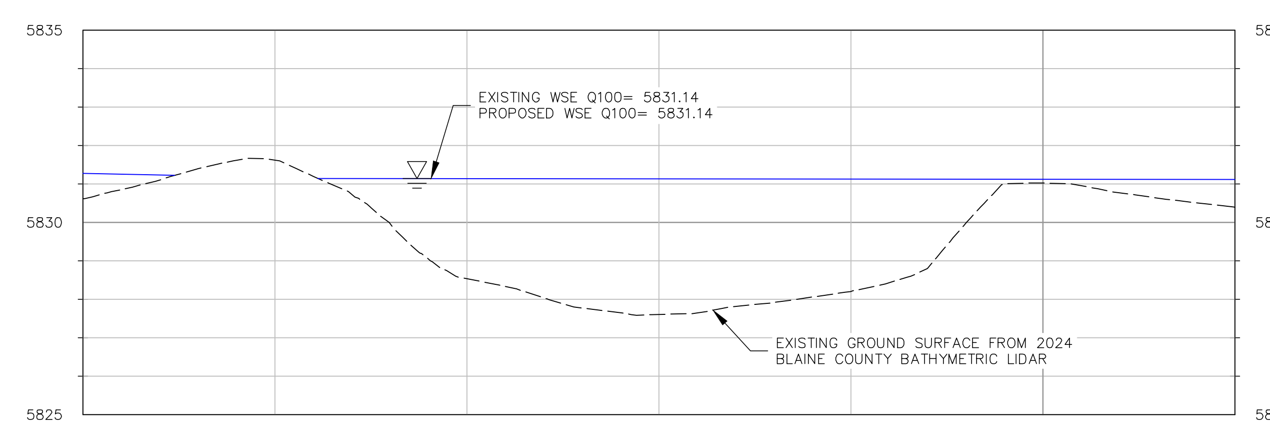


4+00 PROFILE

GRAPHIC SCALE
0 5 10
(IN FEET)
HORIZONTAL SCALE: 1 INCH = 5 FT.
VERT SCALE: 1 INCH = 2.5 FT

Quadrant + River Structures
consulting

MARSUPIAL PROPERTIES STABILIZATION
MODEL RESULTS – PROFILES

KETCHUM IDAHO

PROJECT NO. 831-01

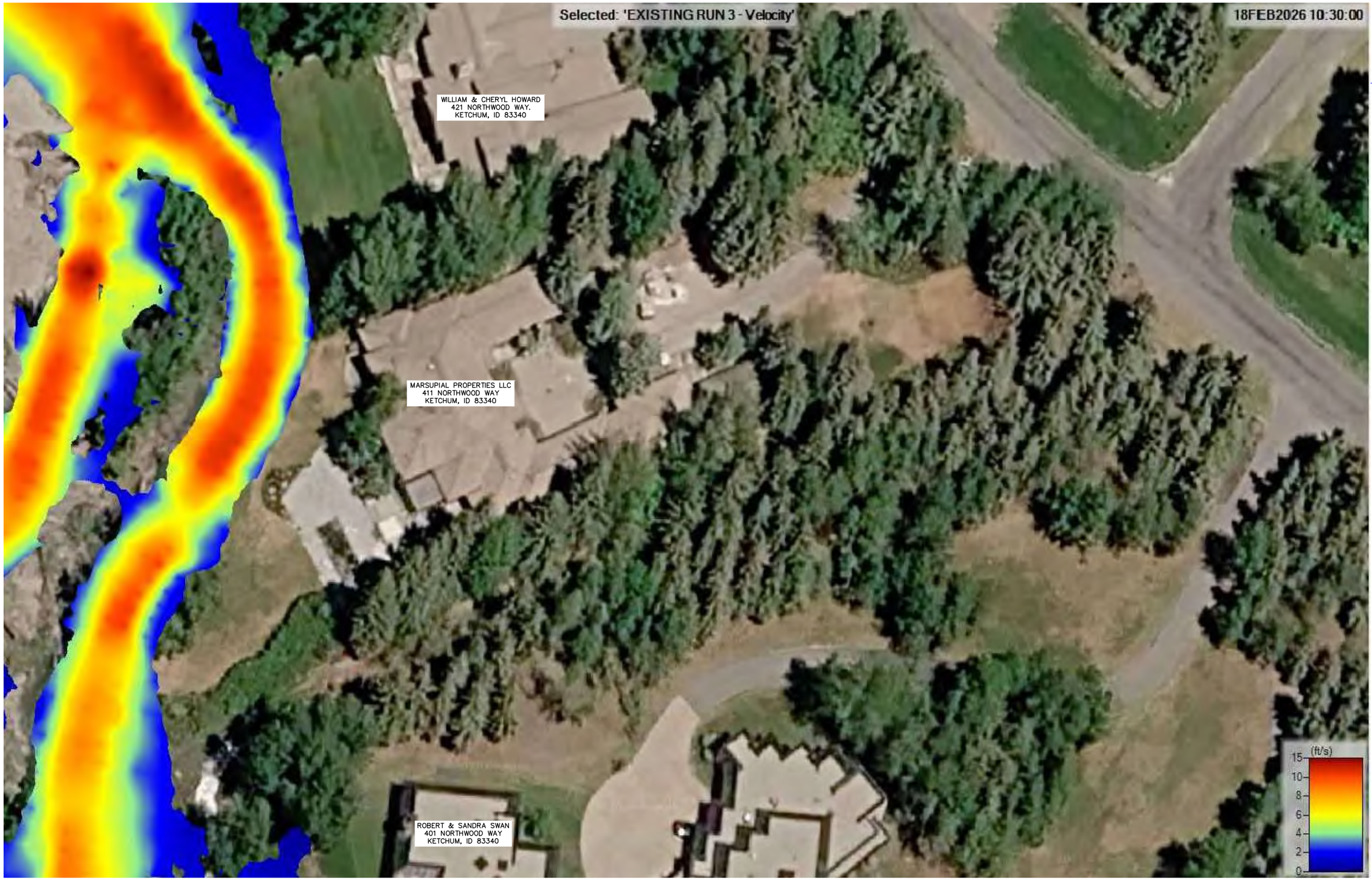
SCALE: VARIES

DESIGNED BY: NK
DRAWN BY: KD
CHECKED BY: NK
PLOT DATE: 2/26/2026

NO.	DATE	BY	REVISION
1			
2			
3			
4			
5			
6			
7			

SHEET
2 OF 4

USER:KARL LOCATION:D:\1_PROJECTS\MARSUPIAL PROPERTIES 2025\RUSACK BANK DESIGN_1-27-2023 - STANDARD\RUSACK BANK DESIGN_02-26-2026 WSE FOR HEC RAS RESULTS.DWG



GRAPHIC SCALE

0 20 40

(IN FEET)
1 INCH = 10 FT.

Quadrant + River Structures

MARSUPIAL PROPERTIES STABILIZATION

MODEL RESULTS - EXISTING VELOCITY

KETCHUM IDAHO

SCALE: VARIES

PROJECT NO. 831-01

DESIGNED BY: NK
DRAWN BY: KD
CHECKED BY: NK
PLOT DATE: 2/26/2026

NO.	DATE	BY	REVISION

SHEET
3 OF 4

SHEET 4 OF 4

DESIGNED BY: NK
DRAWN BY: KD
CHECKED BY: NK
PLOT DATE: 2/26/2026

NO.	DATE	BY	REVISION
1			
2			
3			
4			
5			
6			

MARSUPIAL PROPERTIES STABILIZATION

MODEL RESULTS – PROPOSED VELOCITY

KETCHUM IDAHO

SCALE:	PROJECT NO.	
VARIES	831-01	

QRS consulting
Quadrant + River Structures

Exhibit D – 2023 Emergency Permits

City of Ketchum
Planning & Building

CITY OF KETCHUM
ZONING CODE TITLE 17
EMERGENCY STREAM BANK STABILIAZATION PERMIT
FINDINGS OF FACT AND CONCLUSION OF LAW

PROJECT:	Rusack Emergency Streambank Stabilization
PROJECT #:	23-030
OWNER:	Marsupial Properties LLC (Geoff & Alison Rusack)
REPRESENTATIVE:	Katie Franklin
CONTRACTOR:	Lunceford Excavation
LOCATION:	411 Northwood Way (RESUB OF NORTHWOOD PUD LOT 2 LOT 1 53578 SF)
ZONING:	Limited Residential (LR) with Floodplain Management & Waterways Review District
REQUEST:	Emergency streambank alteration to stabilize bank due to erosion by installing riprap.

1. The City of Ketchum is a municipal corporation organized under Article XII of the Idaho Constitution and the laws of the State of Idaho, Title 50, Idaho Code. Under Chapter 65, Title 67 of the Idaho Code, the City is required to pass certain ordinances regarding land use, including a zoning ordinance.

2. Pursuant to Zoning Code Title 17, Section 17.88.100, to obtain an emergency bank stabilization permit an applicant must submit an application as described in section 17.88.120 of this chapter. A site inspection must be performed by the planning and zoning administrator.

3. The planning and zoning administrator has authorized the City's associate planner to perform the duties necessary to review and grant approval of this application.

4. Associate Planner Adam Crutcher conducted a site visit at the property owner's request on May 3, 2023. Staff observed stream bank erosion along approximately 75 feet (75') linear feet of property abutting the Big Wood River. A majority of the bank on the subject property and property to the north (421 Northwood Way) contain lawn grass up to the bank edge.

5. The application was submitted on May 3, 2023 for emergency streambank stabilization work on the Big Wood River to stabilize the bank due to erosion by installing rip-rap. The applicant proposes to use approximately 60-80 cubic yards of rock to stabilize the eroding bank. The approximate length of bank stabilization is 75 feet (75').

DEPARTMENT OF THE ARMY
U.S. ARMY CORPS OF ENGINEERS
BOISE REGULATORY OFFICE
720 EAST PARK BOULEVARD, SUITE 245
BOISE, IDAHO 83712-7757

September 1, 2023

WALLA WALLA DISTRICT
REGULATORY DIVISION

SUBJECT: NWW-2023-00258, Marsupial Properties After the Fact Emergency Stabilization

Geoff Rusack
Marsupial Properties, LLC
1825 Ballard Canyon Road
Slovang, California, 93463

Dear Mr. Rusack:

We have determined that your proposed project, Marsupial Properties After the Fact Emergency Stabilization, appears to meet the terms and conditions of the Department of the Army (DA) **Nationwide Permit (NWP) No. 13: Bank Stabilization**. This project is located within Section 12 of Township 4 North, Range 17 East, near coordinates 43.691944º N latitude and -114.373056º W longitude, in Sun Valley, Blaine County, Idaho. Please refer to File Number NWW-2023-00258 in all future correspondence with our office regarding this project.

Project activities include the discharge of fill material into the Big Wood River, which may be a water of the U.S., in order to complete emergency bank stabilization activities. The work entailed the installation of approximately 70 cubic yards of rip rap along 110 linear feet of a river side channel in order to provide emergency bank stabilization. This project has already occurred in response to a rapidly eroding bank and did not require a pre-construction notification. Work was completed in accordance with the enclosed drawings, titled: *Marsupial Properties Channel Stabilization Project,* dated *January 12, 2023.*

AUTHORITY

DA permit authorization is necessary because your project may involve the discharge of fill material into waters of the U.S. This authorization is outlined in Section 404 of the Clean Water Act (33 U.S.C. 1344).

PERMIT CONDITIONS

You must comply with all general, regional, and special conditions, for this verification letter to remain valid and to avoid possible enforcement actions. The general and regional permit conditions for *NWP No. 13: Bank Stabilization* are attached and also available online[1]. In addition, you must also comply with the special conditions listed below.

The following Special Conditions include:

1. **Special Condition 1:** Permittee is responsible for ensuring that completed project activities comply with NWP 13: Bank Stabilization Regional and General Conditions. If completed project activities are not in compliance with the Regional and General Conditions, the permittee will contact the Army Corps of Engineers for further guidance.

2. **Special Condition 2:** The permittee is responsible for all work done by any contractor. Permittee shall ensure any contractor who performs the work is informed of and follows all the terms and conditions of this authorization. Permittee shall also ensure these terms and conditions are incorporated into engineering plans and contract specifications.

WATER QUALITY CERTIFICATION

You must also comply with the conditions detailed in the attached Section 401 Water Quality Certification (WQC) issued by the Idaho Department of Environmental Quality (IDEQ) on December 4, 2020. If you have any questions regarding the conditions set forth in the WQC, please contact IDEQ directly at 208-736-2190, Twin Falls Regional Office.

COMPLIANCE CERTIFICATION

Nationwide Permit General Condition 30 (Compliance Certification) requires that every permittee who has received NWP verification must submit a signed certification regarding the completed work and any required mitigation. This Compliance Certification form is enclosed for your convenience and must be completed and returned to us within 30 days of your project's completion.

LIMITATIONS OF THIS VERIFICATION

This letter of authorization does not convey any property rights, or any exclusive privileges and does not authorize any injury to property or excuse you from compliance with other Federal, State, or local statutes, ordinances, regulations, or requirements

[1] http://www.nww.usace.army.mil/Business-With-Us/Regulatory-Division/Nationwide-Permits/

which may affect this work.

EXPIRATION OF THIS VERIFICATION

This verification is valid until **March 14, 2026**, unless the NWP is modified, suspended or revoked. If your project, as permitted under this NWP verification, is modified in any way you must contact our office prior to commencing any work activities. In the event that you have not completed construction of your project by **March 14, 2026**, please contact us at least 60-days prior to this date. A new application and verification may be required.

SERVICE SURVEY

We actively use feedback to improve our delivery and provide you with the best possible service. If you would like to provide feedback, please take our online survey[2]. If you have questions or if you would like a paper copy of the survey, please contact the Walla Walla District Regulatory. For more information about the Walla Walla District Regulatory program, you can visit us online[3].

If you have any questions or need additional information about this permit authorization, you can contact me by phone at 208-433-4469, by mail at the address in the letterhead, or email at sarah.v.windham@usace.army.mil. For informational purposes, a copy of this letter has been sent to: Sean Woodhead with the Idaho Department of Environmental Quality, Katie Gibble and Cass Jones with the Idaho Department of Water Resources, Kristine Hilt with Blaine County and Nick Kraus, designated agent with QRS Consulting.

Sincerely,

Sarah V. Windham
Project Manager, Regulatory Division

Encls
Transfer of Nationwide Permit Form
Compliance Certification
Maps and Drawings: *Marsupial Properties Channel Stabilization Project,* dated

[2] https://regulatory.ops.usace.army.mil/customer-service-survey/
[3] http://www.nww.usace.army.mil/Business-With-Us/Regulatory-Division/

January 12, 2023.
Nationwide Permit No. 13: Bank Stabilization General and Regional Conditions
IDEQ General Water Quality Certification dated December 04, 2020

TRANSFER OF NATIONWIDE PERMIT

When the structures or work authorized by this Nationwide Permit, **NWW-2023-00258 Marsupial Properties After the Fact Emergency Stabilization**, are still in existence at the time the property is transferred. The terms and conditions of this Nationwide Permit, including any special conditions, will continue to be binding on the new owner(s) of the property. To validate the transfer of this Nationwide Permit, the associated liabilities and compliance with the terms and conditions the transferee must sign and date below.

Name of New Owner:

Street Address:

Mailing Address:

City, State, Zip:

Phone Number:

_____ _____

Signature of TRANSFEREE *DATE*

COMPLIANCE CERTIFICATION

US Army Corps of Engineers
Walla Walla District

Permit Number: NWW-2023-00258

Name of Permittee: Marsupial Properties LLC

Date of Issuance: September 1, 2023

Upon completion of the activity authorized by this permit and any mitigation required by the permit, please sign this certification and return it to the following address:

U.S. Army Corps of Engineers
Walla Walla District
Boise Regulatory Office
720 East Park Blvd., Suite 245
Boise, Idaho 83712-7757

Please note that your permitted activity is subject to a compliance inspection by a U.S. Army Corps of Engineers representative. If you fail to comply with all terms and conditions of this permit, the permit is subject to suspension, modification, or revocation and you are subject to an enforcement action by this office.

I hereby certify that the work authorized by the above-referenced permit has been completed in accordance with the terms and conditions of the said permit. The required mitigation was also completed in accordance with the permit conditions.

_____ _____

Signature of PERMITEE *DATE*

MARSUPIAL PROPERTIES CHANNEL STABILIZATION PROJECT

EMERGENCY PERMIT APPLICATION

CITY OF KETCHUM PROJECT NO. 23-030

N

INDEX OF SHEETS

DATUM

1. HORIZONTAL – NAD83 IDAHO STATE PLANES CENTRAL ZONE, US FT.
2. VERTICAL – NAVD88

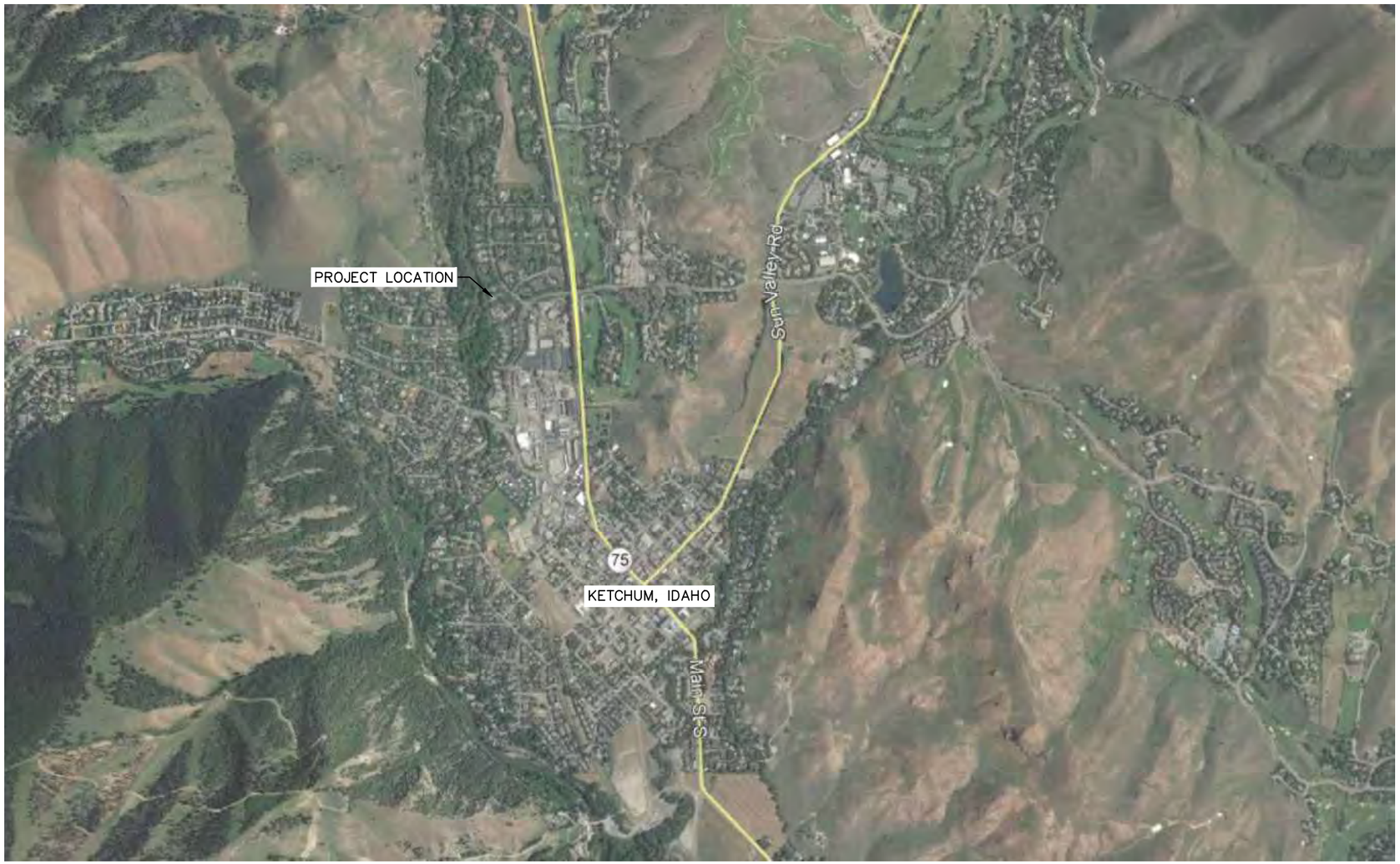
APPROXIMATE GPS SITE COORDINATES

LATITUDE: 43°41'32" N LONGITUDE: 114°22'22" W

DIRECTIONS TO SITE

BEGINNING IN KETCHUM, IDAHO, AT THE INTERSECTION OF MAIN ST. AND SUN VALLEY RD. HEAD NORTHWEST ON N. MAIN ST. FOR 0.9 MILES. TURN LEFT ONTO SADDLE ROAD AND PROCEED FOR 0.1 MILES. TURN RIGHT ONTO NORTHWOOD WAY AND PROCEED FOR APPROXIMATELY 350 FT. TO THE PROJECT LOCATION ON THE LEFT (411 NORTHWOOD WAY).

VICINITY MAP



Quadrant Consulting, Inc.
1904 W. Overland Rd
Boise, Idaho 83705
(208) 342-0091 PHONE (208) 342-0092 FAX
CIVIL ENGINEERING-SURVEYING

PROFESSIONAL ENGINEER REGISTERED 10969 STATE OF IDAHO NICHOLAS A. KRAUS
5-30-23

MARSUPIAL PROPERTIES STABILIZATION
TITLE SHEET
KETCHUM IDAHO

SCALE: N/A
PROJECT NO. 831-01

DESIGNED BY: AE/NK
DRAWN BY: AE/KD
CHECKED BY: NK
PLOT DATE: 1/12/23

NO.	DATE	BY	REVISION

SHEET
C1

N

GRAPHIC SCALE
0 20 40
(IN FEET)
1 INCH = 20 FT.

TOE OF RIVER
TOP BANK OF RIVER
PROPERTY LINE
MINOR CONTOUR LINE
MAJOR CONTOUR LINE
FW FLOODWAY
FP 100 YEAR FLOODPLAIN
OHWM ORDINARY HIGH WATER MARK

CONSTRUCTION NOTES

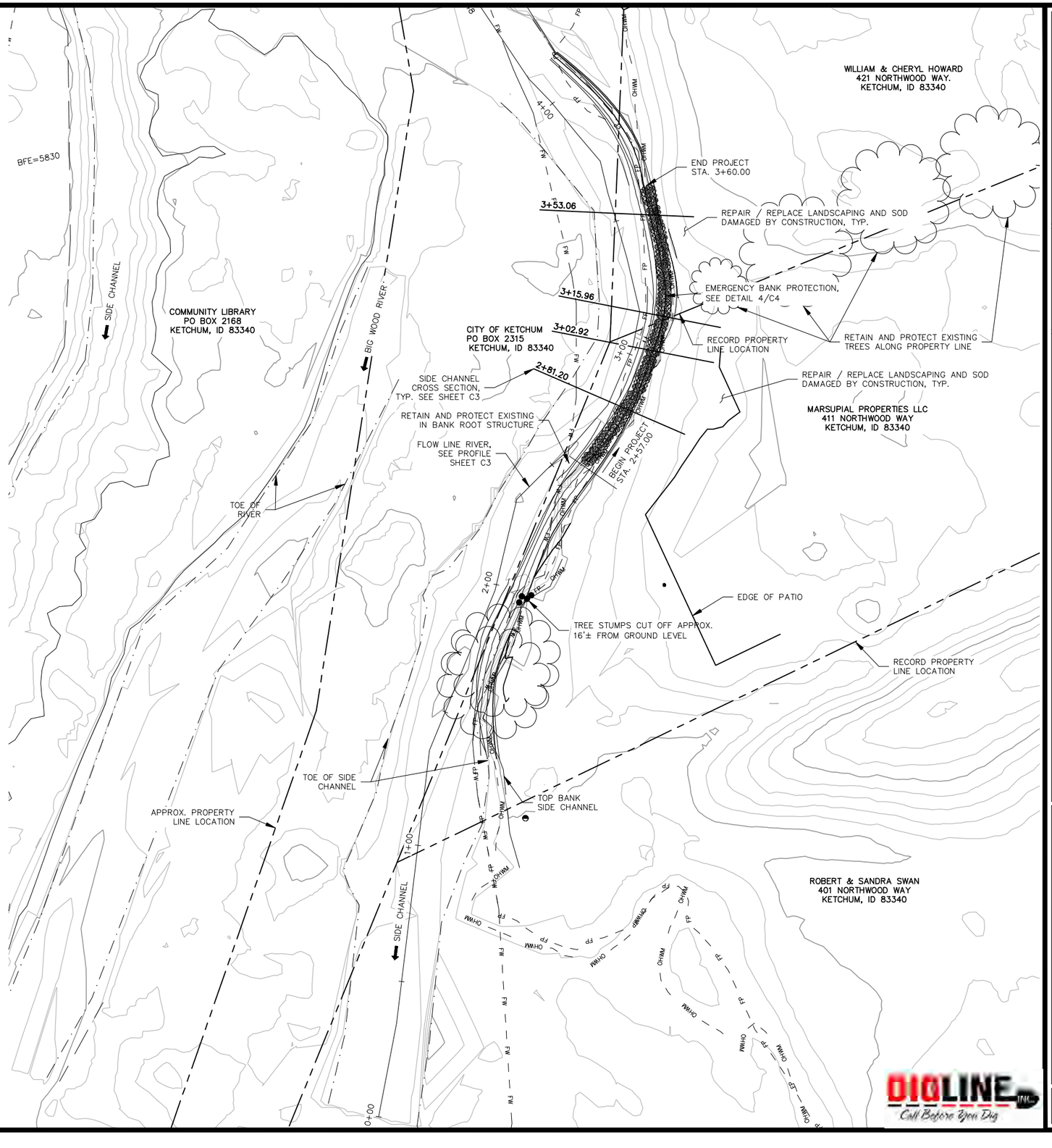
1. CONTRACTOR SHALL LOCATE ANY UTILITIES ON-SITE PRIOR TO CONSTRUCTION. CONTACT DIGLINE TO MARK OUT PRECISE LOCATION IN FIELD. ANY UTILITIES DAMAGED DURING CONSTRUCTION SHALL BE REPAIRED AT THE CONTRACTOR'S EXPENSE.
2. DIGLINE CONTACT 1-800-342-1585.
3. THE "OWNER" OF THE PROJECT, AS REFERENCED IN THESE SPECIFICATIONS IS MARSUPIAL PROPERTIES LLC..
4. UPON COMPLETION OF THE PROJECT, ALL AREAS USED BY CONTRACTOR SHALL BE PROPERLY GRADED TO DRAIN AND BLEND IN WITH THE SURROUNDING TERRAIN.
5. THE CONTRACTOR SHALL BE RESPONSIBLE FOR THE REPAIR OF ANY EXISTING ITEMS DAMAGED DURING CONSTRUCTION, INCLUDING FENCING, ROADS, GATES, PATHS, AND PROPERTY IMPROVEMENTS.
6. THE OWNER OR ENGINEER RESERVES THE RIGHT TO MAKE ADJUSTMENTS IN THE FIELD TO DIMENSIONS, STRUCTURE LOCATIONS, STRUCTURE DETAILS, AND ALL OTHER RELEVANT PRACTICES AS NEEDED TO PRESERVE DESIGN INTENT, HABITAT IN THE RIVER AND FLOODPLAIN, AND TO FIT DYNAMIC RIVER CONDITIONS.
7. THE CONTRACTOR SHALL ONLY REMOVE TREES AND SHRUBS THAT ARE ABSOLUTELY NECESSARY FOR THE EXECUTION OF THE WORK AND SHALL MAKE ALL EFFORTS TO MINIMIZE TREE REMOVAL. IN THE EVENT THAT A TREE OR SHRUB OUTSIDE THE IMMEDIATE WORK AREAS MUST BE REMOVED OR DAMAGED, THE CONTRACTOR SHALL OBTAIN PRIOR APPROVAL FROM THE OWNER.
8. ANY ORGANIC MATERIAL RESULTING FROM TREE OR BRUSH REMOVAL SHALL NOT BE USED FOR BACKFILL MATERIAL.
9. MINOR MODIFICATIONS ARE EXPECTED TO SUIT JOB SITE DIMENSIONS OR CONDITIONS. SUCH MODIFICATIONS SHALL BE INCLUDED AS PART OF THE WORK. THE OWNER, ENGINEER, AND APPROPRIATE REGULATORY AGENCIES WILL BE NOTIFIED OF AN OWNER-AUTHORIZED CHANGE RESULTING IN MORE THAN A 10% DESIGN CHANGE OF PROPOSED FOOTPRINT OR SIGNIFICANTLY AFFECTING THE INTENDED BENEFIT OR FUNCTION OF A PROJECT ELEMENT.
10. THE CONTRACTOR AGREES TO ASSUME SOLE AND COMPLETE RESPONSIBILITY FOR JOB SITE CONDITIONS DURING THE COURSE OF CONSTRUCTION OF THIS PROJECT, INCLUDING SAFETY OF ALL PERSONS AND PROPERTY, AND FURTHER AGREES THAT THIS REQUIREMENT SHALL APPLY CONTINUOUSLY AND NOT BE LIMITED TO NORMAL WORKING HOURS IN ACCORDANCE WITH THE PROVISIONS OUTLINED BY THE PROJECT CONTRACT AND SPECIFICATIONS.
11. IT IS THE RESPONSIBILITY OF THE CONTRACTOR AND THEIR SUBCONTRACTOR(S) TO EXAMINE THE PROJECT SITE PRIOR TO THE SUBMITTAL OF BID PROPOSALS. THE CONTRACTOR SHALL BECOME FAMILIAR WITH THE CONDITIONS UNDER WHICH THE WORK IS TO BE PERFORMED SUCH AS THE NATURE AND LOCATION OF THE WORK AND THE GENERAL AND LOCAL CONDITIONS, PARTICULARLY THOSE AFFECTING THE AVAILABILITY OF TRANSPORTATION; THE DISPOSAL, HANDLING, AND STORAGE OF MATERIALS; AVAILABILITY OF LABOR, WATER, ELECTRICITY, AND ROADS; THE UNCERTAINTIES OF WEATHER; THE CONDITIONS OF THE GROUND, SURFACE AND SUBSURFACE MATERIALS, AND GROUNDWATER; THE EQUIPMENT AND FACILITIES NEEDED FOR AND DURING THE PERFORMANCE OF THE WORK; AND THE COSTS THEREOF. ANY FAILURE BY THE CONTRACTOR AND SUBCONTRACTOR(S) TO ACQUAINT THEMSELVES WITH ALL THE AVAILABLE INFORMATION WILL NOT RELIEVE THE CONTRACTOR AND SUBCONTRACTOR(S) FROM RESPONSIBILITY FOR PROPERLY ESTIMATING THE DIFFICULTY AND COST OF SUCCESSFULLY PERFORMING THE WORK.
12. THE CONTRACTOR IS RESPONSIBLE FOR REVIEWING THE CONTRACT DOCUMENTS AND FOR ALL SUBMITTALS REQUIRED TO THE OWNER FOR REVIEW AND ACCEPTANCE.
13. CONTRACTOR SHALL FURNISH ALL MATERIALS, EQUIPMENT, AND LABOR NECESSARY TO COMPLETE ALL WORK AS INDICATED IN THE CONTRACT DOCUMENTS.
14. CONSTRUCTION HOURS SHALL BE WEEKDAYS BETWEEN 8:00 A.M. AND 6:00 P.M. UNLESS PRIOR APPROVAL IS RECEIVED FROM THE OWNER.
15. THE CONTRACTOR SHALL INSTALL ALL EQUIPMENT AND MATERIAL IN ACCORDANCE WITH MANUFACTURER'S RECOMMENDATIONS UNLESS SPECIFICALLY INDICATED OTHERWISE ON THE DRAWINGS OR WHERE LOCAL CODES OR REGULATIONS TAKE PRECEDENCE.
16. ALL WORK PERFORMED AND MATERIALS INSTALLED SHALL BE IN STRICT ACCORDANCE WITH ALL APPLICABLE CODES, REGULATIONS, AND ORDINANCES.
17. THE CONTRACTOR SHALL SUPERVISE AND DIRECT THE WORK USING THE BEST SKILLS AND ATTENTION. THE CONTRACTOR SHALL BE SOLELY RESPONSIBLE FOR ALL CONSTRUCTION MEANS, METHODS, TECHNIQUES, SEQUENCES, AND PROCEDURES FOR COORDINATING ALL PORTIONS OF THE WORK UNDER THIS CONTRACT.
18. THE CONTRACTOR SHALL KEEP THE JOB SITE CLEAN AND HAZARD FREE. CONTRACTOR SHALL DISPOSE OF ALL DIRT, DEBRIS, AND RUBBISH FOR THE DURATION OF THE WORK. UPON COMPLETION OF WORK, CONTRACTOR SHALL REMOVE ALL MATERIAL AND EQUIPMENT NOT SPECIFIED AS REMAINING ON THE PROPERTY.
19. NOTES AND DETAILS ON THE PLANS SHALL TAKE PRECEDENCE OVER GENERAL NOTES HEREIN.
20. DIMENSION CALLOUTS SHALL TAKE PRECEDENCE OVER SCALES SHOWN ON THE PLANS.
21. CONSTRUCTION STAGING AND REFUELING AREAS SHALL BE A MINIMUM OF 150 FT AWAY FROM SURFACE WATERS AND/OR WETLANDS.

PERMIT NOTES

1. WORK WAS COMPLETED UNDER CITY OF KETCHUM EMERGENCY PERMIT AUTHORIZATION NUMBER 23-030 ON 5-4-2023

FEMA SPECIAL FLOOD HAZARD AREA NOTES

1. THIS PROJECT IS LOCATED WITHIN A SPECIAL FLOOD HAZARD AREA ZONE AE AND FLOODWAY AS DEPICTED ON FEMA FLOOD INSURANCE RATE MAP 16013C0453E EFFECTIVE 11/26/2010. THE DESIGN ELEMENTS DEPICTED ON THESE DRAWINGS COMPLY WITH FEMA NATIONAL FOOD INSURANCE PROGRAM REGULATIONS AND CHAPTER 17.88 OF CITY OF KETCHUM, ID MUNICIPAL CODE (FLOODPLAIN MANAGEMENT OVERLAY ZONING DISTRICT).



DIGLINE INC
Call Before You Dig

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Boise, Idaho 83705
(208) 342-0091 PHONE (208) 342-0092 FAX
CIVIL ENGINEERING-SURVEYING

PROFESSIONAL ENGINEER REGISTERED 10969 STATE OF IDAHO NICHOLAS A. KRAUS
5-30-23

MARSUPIAL PROPERTIES STABILIZATION
SITE PLAN

KETCHUM IDAHO

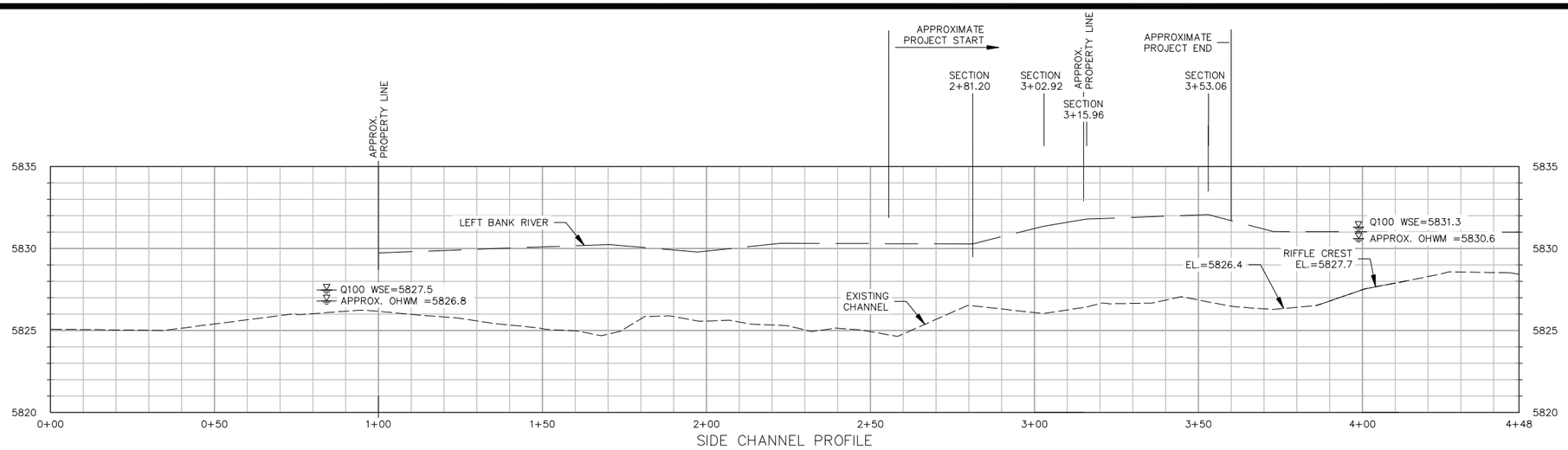
SCALE: 1"=20'
PROJECT NO. 831-01

DESIGNED BY: AE/NK
DRAWN BY: AE/KD
CHECKED BY: NK
PLOT DATE: 1/12/23

NO.	DATE	BY	REVISION

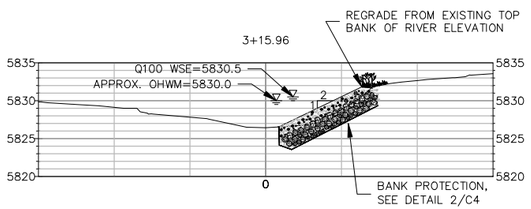
SHEET
C2

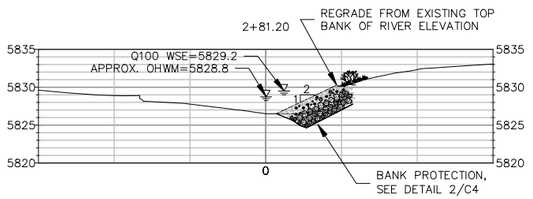
GRAPHIC SCALE
0 20 40
(IN FEET)
1 INCH = 20 FT.
VERT SCALE=5:1

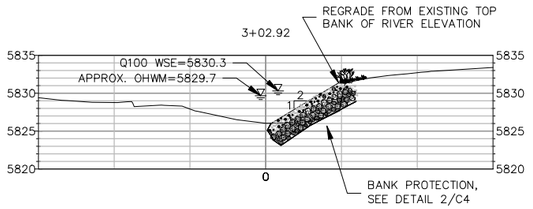


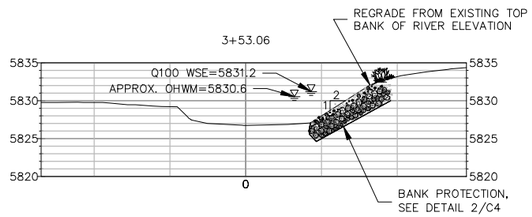
SIDE CHANNEL PROFILE

GRAPHIC SCALE
0 10 20
(IN FEET)
1 INCH = 10 FT.
VERT SCALE=1:1









NOTE: NO BANK PROTECTION SHALL BE PLACED TO THE RIVER SIDE OF THE ESTIMATED SIDE CHANNEL BANK LOCATION. PRE-2017

Quadrant Consulting, Inc.
1904 W. Overland Rd
Boise, Idaho 83705
(208) 342-0091 PHONE (208) 342-0092 FAX
CIVIL ENGINEERING-SURVEYING

PROFESSIONAL ENGINEER REGISTERED 10969 STATE OF IDAHO NICHOLAS A. KRAUS
5-30-23

MARSUPIAL PROPERTIES STABILIZATION
PROFILE & CROSS SECTIONS

KETCHUM IDAHO

PROJECT NO. 831-01

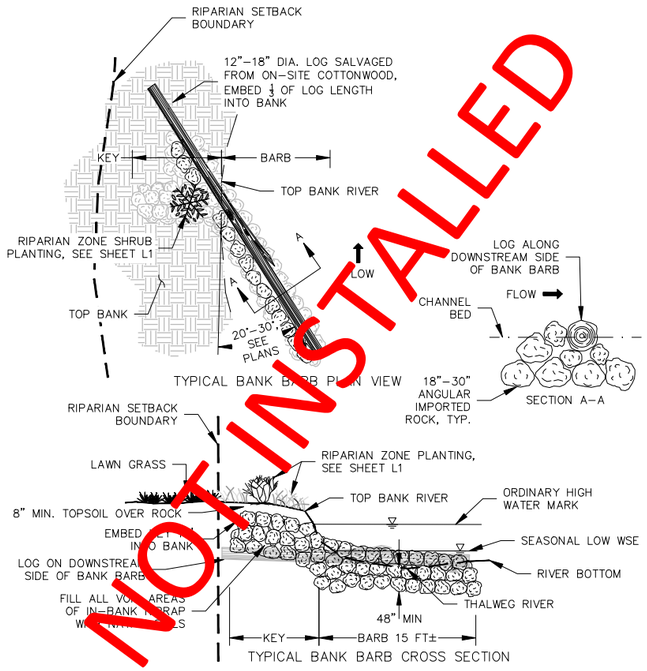
SCALE: VARIES

DESIGNED BY: AE/NK
DRAWN BY: AE/KD
CHECKED BY: NK
PLOT DATE: 1/12/23

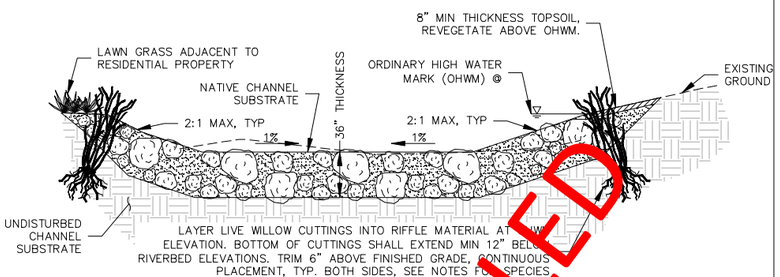
NO.	DATE	BY	REVISION

SHEET
C3

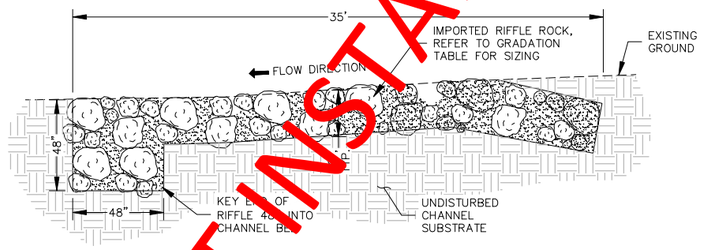
NOTES:
1. DIMENSIONS AND ORIENTATION GIVEN ARE APPROXIMATE. FINAL SIZE AND ORIENTATION TO BE DETERMINED BY ENGINEER AT TIME OF CONSTRUCTION. BARB LENGTH NOT TO EXCEED 25% WETTED CHANNEL WIDTH.
2. BANK BARB COMPRISED OF 50± C.Y. OF CLEAN ROCK.
3. IMPORTED ROCK SHALL BE ANGULAR TO SUB-ROUNDED, LOCALLY SOURCED GRANITIC ROCK SIMILAR IN COLOR AND TEXTURE TO THE EXISTING CHANNEL SUBSTRATE. ENGINEER SHALL APPROVE ROCK SOURCE PRIOR TO IMPORT.



BANK BARB DETAIL 1/C4
NTS



SECTION VIEW (LOOKING DOWNSTREAM)



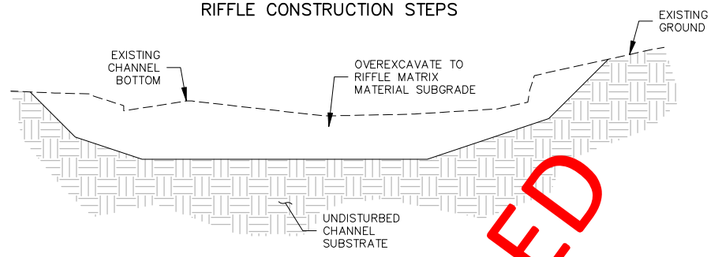
PROFILE VIEW

IMPORTED RIFFLE MATRIX GRADATION	
PERCENT PASSING	SIZE CLASS RANGE (INCHES)
100%	18
50%	12
30%	6

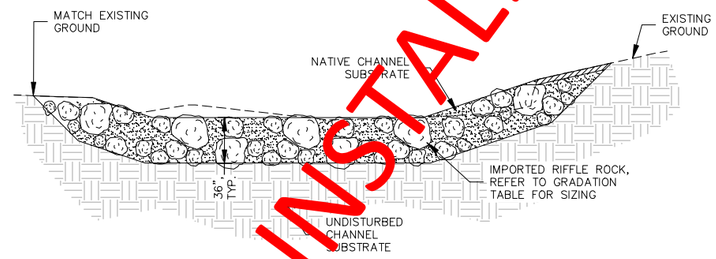
GRADATION NOTES:
1. PERCENT PASSING SIZE CLASS IS BASED ON NOMINAL DIAMETER OF IMPORTED ROCK.
2. NOMINAL DIAMETER SHALL BE MEASURED AS THE INTERMEDIATE AXIS WHERE THE SMALL AND LARGE AXIS SHALL NOT BE MORE THAN 2 TIMES LESS THAN OR GREATER THAN THE NOMINAL DIAMETER.
3. IMPORTED ROCK SHALL BE ANGULAR TO SUB-ROUNDED, LOCALLY SOURCED GRANITIC ROCK SIMILAR IN COLOR AND TEXTURE TO THE EXISTING CHANNEL SUBSTRATE. ENGINEER SHALL APPROVE ROCK SOURCE PRIOR TO IMPORT.
4. LIVE CUTTINGS TO BE BEBB'S OR DRUMMOND WILLOW.

TYPICAL CONSTRUCTED RIFFLE 3/C4
NTS

RIFFLE CONSTRUCTION STEPS

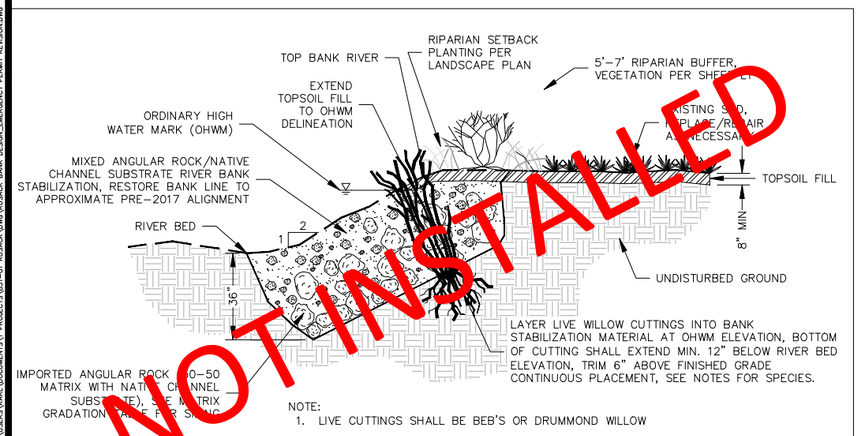


STEP 1



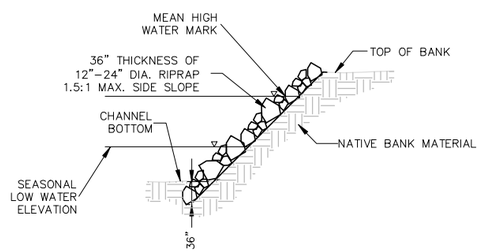
STEP 2

RIFFLE PLACEMENT NOTES:
1. RIFFLE PLACEMENT SHALL GENERALLY OCCUR IN 2 OR MORE LIFTS AS FOLLOWS:
   1.1. RE-GRADE SUBGRADE TO DESIGN ELEVATIONS.
   1.2. PLACE LAYER OF IMPORTED RIFFLE MATRIX ROCK LEAVING APPROXIMATELY 50% VOID SPACE, SEAT INTO FINISHED SUBGRADE USING EXCAVATOR BUCKET.
   1.3. FILL VOID SPACES BETWEEN ROCK WITH NATIVE CHANNEL SUBSTRATE AND TRACK WALK WITH EXCAVATOR.
   1.4. PRESSURE WASH SUBSTRATE IN VOID AREAS TO CONSOLIDATE. ADD ADDITIONAL MATERIAL TO MAKE UP FOR SETTLEMENT. FINISHED SURFACE SHALL TEMPORARILY POND WATER OR AS APPROVED BY ENGINEER.
   1.5. PLACE ADDITIONAL LAYERS OF ROCK/SUBSTRATE AS NECESSARY TO ACHIEVE FINAL FINISHED GRADE.
   1.6. REMOVE EXCESS EXCAVATED CHANNEL MATERIAL OFF-SITE.
   1.7. FINISHED SURFACE SHALL RESEMBLE EXISTING CHANNEL BED IN NATURE AND APPEARANCE.



NOTE:
1. LIVE CUTTINGS SHALL BE BEB'S OR DRUMMOND WILLOW

BANK PROTECTION DETAIL 2/C4
NTS



EMERGENCY BANK PROTECTION 4/C4

BANK PROTECTION MATRIX GRADATION

BANK PROTECTION PLACEMENT NOTES:
1. BANK PROTECTION PLACEMENT SHALL GENERALLY OCCUR IN 2 OR MORE LIFTS AS FOLLOWS:
   1.1. RE-GRADE SUBGRADE TO DESIGN ELEVATIONS.
   1.2. PLACE LAYER OF IMPORTED ROCK LEAVING APPROXIMATELY 50% VOID SPACE, SEAT INTO FINISHED SUBGRADE USING EXCAVATOR BUCKET.
   1.3. FILL VOID SPACES BETWEEN ROCK WITH NATIVE CHANNEL SUBSTRATE AND COMPACT WITH EXCAVATOR BUCKET.
   1.4. PRESSURE WASH SUBSTRATE IN VOID AREAS TO CONSOLIDATE. ADD ADDITIONAL MATERIAL TO MAKE UP FOR SETTLEMENT.
   1.5. PLACE ADDITIONAL LAYERS OF ROCK/SUBSTRATE AS NECESSARY TO ACHIEVE FINAL FINISHED GRADE.
   1.6. REMOVE EXCESS EXCAVATED CHANNEL MATERIAL OFF-SITE.
   1.7. FINISHED SURFACE SHALL RESEMBLE EXISTING CHANNEL BED IN NATURE AND APPEARANCE.

RIFFLE MATRIX GRADATION	
PERCENT PASSING	SIZE CLASS RANGE (INCHES)
100%	18
50%	12
30%	6

GRADATION NOTES:
1. PERCENT PASSING SIZE CLASS IS BASED ON NOMINAL DIAMETER OF IMPORTED ROCK.
2. NOMINAL DIAMETER SHALL BE MEASURED AS THE INTERMEDIATE AXIS WHERE THE SMALL AND LARGE AXIS SHALL NOT BE MORE THAN 2 TIMES LESS THAN OR GREATER THAN THE NOMINAL DIAMETER.
3. IMPORTED ROCK SHALL BE ANGULAR TO SUB-ROUNDED, LOCALLY SOURCED GRANITIC ROCK SIMILAR IN COLOR AND TEXTURE TO THE EXISTING CHANNEL SUBSTRATE. ENGINEER SHALL APPROVE ROCK SOURCE PRIOR TO IMPORT.

Quadrant Consulting, Inc.
1904 W. Overland Rd
Boise, Idaho 83705
(208) 342-0091 PHONE (208) 342-0092 FAX
CIVIL ENGINEERING-SURVEYING

PROFESSIONAL ENGINEER REGISTERED 10969 STATE OF IDAHO NICHOLAS A. KRAUS 5-30-23

MARSUPIAL PROPERTIES STABILIZATION
DETAILS
KETCHUM IDAHO

PROJECT NO. 831-01
SCALE: 1"=20'

NO.	DATE	BY	REVISION

CHECKED BY: NK
PLOT DATE: 1/12/23
DESIGNED BY: AE/NK
DRAWN BY: AE/KD

SHEET
C4

NATIONWIDE PERMIT 13

Bank Stabilization:

Bank stabilization activities necessary for erosion control or prevention, such as vegetative stabilization, bioengineering, sills, rip rap, revetment, gabion baskets, stream barbs, and bulkheads, or combinations of bank stabilization techniques, provided the activity meets all of the following criteria:

(a) No material is placed in excess of the minimum needed for erosion protection;

(b) The activity is no more than 500 feet in length along the bank, unless the district engineer waives this criterion by making a written determination concluding that the discharge of dredged or fill material will result in no more than minimal adverse environmental effects (an exception is for bulkheads – the district engineer cannot issue a waiver for a bulkhead that is greater than 1,000 feet in length along the bank);

(c) The activity will not exceed an average of one cubic yard per running foot, as measured along the length of the treated bank, below the plane of the ordinary high water mark or the high tide line, unless the district engineer waives this criterion by making a written determination concluding that the discharge of dredged or fill material will result in no more than minimal adverse environmental effects;

(d) The activity does not involve discharges of dredged or fill material into special aquatic sites, unless the district engineer waives this criterion by making a written determination concluding that the discharge of dredged or fill material will result in no more than minimal adverse environmental effects;

(e) No material is of a type, or is placed in any location, or in any manner, that will impair surface water flow into or out of any waters of the United States;

(f) No material is placed in a manner that will be eroded by normal or expected high flows (properly anchored native trees and treetops may be used in low energy areas);
(g) Native plants appropriate for current site conditions, including salinity, must be used for bioengineering or vegetative bank stabilization;

(h) The activity is not a stream channelization activity; and

(i) The activity must be properly maintained, which may require repairing it after severe storms or erosion events. This NWP authorizes those maintenance and repair activities if they require authorization.

This NWP also authorizes temporary structures, fills, and work, including the use of temporary mats, necessary to construct the bank stabilization activity. Appropriate measures must be taken to maintain normal downstream flows and minimize flooding to the maximum extent practicable, when temporary structures, work, and discharges of

dredged or fill material, including cofferdams, are necessary for construction activities, access fills or dewatering of construction sites. Temporary fills must consist of materials, and be placed in a manner, that will not be eroded by expected high flows. After construction, temporary fills must be removed in their entirety and the affected areas returned to pre-construction elevations. The areas affected by temporary fills must be revegetated, as appropriate.

Notification: The permittee must submit a pre-construction notification to the district engineer prior to commencing the activity if the bank stabilization activity: (1) involves discharges of dredged or fill material into special aquatic sites; or (2) is in excess of 500 feet in length; or (3) will involve the discharge of dredged or fill material of greater than an average of one cubic yard per running foot as measured along the length of the treated bank, below the plane of the ordinary high-water mark or the high tide line. (See general condition 32.) (Authorities: Sections 10 and 404)

Note: In coastal waters and the Great Lakes, living shorelines may be an appropriate option for bank stabilization and may be authorized by NWP 54.

WATER QUALITY CERTIFICATION, NWP 13:

Agency responsible for administration of water quality, based on project location is listed below. If DENIED, then an Individual Water Quality Certification or Waiver of Certification is required, prior to the commencement of any work activities and/or issuance of a DA verification, authorization and/or permit.

State of Idaho: **PARTIALLY DENIED:** activities requiring a Pre-Construction Notification (PCN) for NWP 13 are **not certified**.

Coeur d'Alene Tribal Lands: **DENIED**

Shoshone-Bannock Tribal Lands: **DENIED**

U.S. Environmental Protection Agency for all other Tribal Lands: **PARTIALLY DENIED:** activities are denied when:

- The entire scope of the project is greater than 300 linear feet; or
- The project includes hard armoring approaches; or
- The project is in marine waters and has not completed the assessments set forth in the Marine Shoreline Design Guidelines (for projects proposed on tribal lands or lands of exclusive federal jurisdiction in Washington State) or
- The project involves permanent fill in wetlands that are waters of the U.S.

2021/2022 Nationwide Permits
Regional Conditions
Walla Walla District Regulatory Division (State of Idaho)

January 13, 2021

The following Nationwide Permit (NWP) regional conditions are required in the state of Idaho and apply to all 2021/2022 NWPs[1]. Regional conditions are established by individual Corps Districts to ensure projects result in no more than minimal adverse impacts to the aquatic environment and to address local resources concerns. This document also includes regional additions to the NWP General Conditions, notification procedures pertaining to certain NWP's, and regional additions to the definitions.

REGIONAL CONDITIONS

A. Watersheds Requiring Pre-Construction Notification, Specific to Anadromous Fish

This Regional Condition applies to all 2021/2022 NWPs.

- Pre-construction notification (PCN) will be required for the above listed nationwide permits in the geographic area as shown on Figure 1: *Watersheds Requiring Pre-Construction Notification*, dated January 6, 2021.

B. Vegetation Preservation and Replanting

- To avoid impacts to aquatic habitat and to reduce sedimentation and erosion, permittee shall avoid and minimize the removal of vegetation in waters of the U.S. to the maximum extent practicable. Areas subject to temporary vegetation removal in waters of the U.S. during construction shall be replanted with appropriate native[2] species by the end of the first growing season, unless conditioned otherwise. Permittee shall avoid introducing or spreading noxious or invasive plants[3].

- Replanted vegetation that does not survive the first growing season shall be replanted before the end of the next growing season. Re-plantings shall continue to occur until desired vegetation densities are achieved. Re-vegetation densities should be based on reference conditions.

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[1] For the list of 2021/2022 Nationwide Permits please see: https://www.nww.usace.army.mil/Business-With-Us/Regulatory-Division/Nationwide-Permits/

[2] Idaho Department of Transportation, Native Plants for Idaho Roadside Restoration and Revegetation Programs: https://itd.idaho.gov/wp-content/uploads/2016/06/RP171Roadside_Revegetation.pdf

[3] U.S. Department of Agriculture, Natural Resource Conservation Service Plant Database of introduced, invasive, and noxious plants for Idaho: https://plants.usda.gov/java/noxious?rptType=State&statefips=16.

C. De-watering & Re-watering (as applicable)

- Cofferdams shall be constructed of non-erosive material such as concrete jersey barriers, bulk bags, water bladders, sheet pile, and other similar non-erosive devices. Cofferdams may not be constructed by using mechanized equipment to push streambed material through flowing water.

- Diversion channels constructed to bypass flow around the construction site shall be lined with plastic, large rock, pipe or otherwise protected from erosion prior to releasing flows into or through the diversion channel.

- Water removed from within the coffered area shall be pumped to a sediment basin or otherwise treated to remove suspended sediments prior to its return to the waterway.

- To prevent unwanted passage of state or federally-protected fish, if present, from the coffered area, Water pipe intakes shall be screened with openings measuring < 3/32 inch to prevent entrainment of fish trapped in the coffered area.

- Should fish be present within the coffered areas contact your local Idaho Department of Fish and Game (IDFG) office prior to performing fish removal or salvage. Fish shall be collected by electrofishing, seining or dip net, or otherwise removed and returned to the waterway upstream of the project area. If electrofishing is used, the National Marine Fisheries Service (NMFS) guidelines for electrofishing should be followed[4], unless conditioned otherwise.

- Stream channels that have been dewatered during project construction shall be re-watered slowly to avoid lateral and vertical erosion of the de-watered channel, prevent damage to recently reclaimed work areas and/or damage to permitted work.

- Temporary stockpiles in waters of the United States shall be removed in their entirety so as not to form a berm or levee parallel to the stream that could confine flows or restrict overbank flow to the floodplain.

D. In-Water Structures and Complexes

- PCN notification in accordance with General Condition 32 is required for all non-federal applicants with activities involving gabion baskets placed below the ordinary high water mark.
- Stream meanders, riffle and pool complexes, pool stream structures, rock/log barbs, rock J-hooks, drop structures, sills, engineered log jams or similar structures/features when used shall be site specifically designed by an appropriate professional with experience in hydrology or fluvial geomorphology.

[4] Guidelines for Electrofishing Waters Containing Salmonids Listed Under the Endangered Species Act (June 2000) http://www.westcoast fisheries.noaa.gov/publications/reference_documents/esa_refs/section4d/electro2000.pdf

E. Temporary Sidecasting

- Materials from exploratory trenching and installation of utility lines may be temporarily side cast into a de-watered coffered area for up to 30 days but not within flowing waters. Material from exploratory trenching and installation of utility lines in wetlands may be temporarily side cast for up to 30 days.

F. Suitability of Sediments for Open Water Disposal and us as Fill

- Sampling for determination of suitability of sediments for open water disposal or for use as fill, must comply with the Sediment Evaluation Framework for the Pacific Northwest (SEF)[5].

G. Avoidance and Minimization

- In addition to information required under General Condition 32(b), the applicant shall include information about previous discharges of fill material into waters of the United States within the project area. This is only for non-federal applicants where a PCN is required.

- Discharges of dredged or fill material into waters of the U.S., including wetlands, to meet set back requirements are not authorized under NWP.

H. Erosion Control

- Erosion control blanket or fabric used in or adjacent to waters of the U.S. shall be comprised of biodegradable material, to ensure decomposition and reduced risk to fish, wildlife and public safety, unless conditioned otherwise. If the applicant proposes to use materials other than as indicated above they must demonstrate how the use of such materials will not cause harm to fish, wildlife and public safety.

I. Reporting Requirement for Federal Permittees

- Federal Agencies with projects that require compensatory mitigation for loss of waters of the U.S. and who propose to purchase credits from an approved wetland and/or stream mitigation bank must provide proof of purchase within 30 days of when the credits were purchased. Purchase of credits from an approved mitigation bank must be IAW the Mitigation Banking Instrument of Record.

[5] Northwest Regional Sediment Evaluation Team (RSET) 2016. Sediment Evaluation Framework for the Pacific Northwest. Prepared by the RSET Agencies, July 2016, 160 pp plus appendices. http://nwd.usace.army.mil/Missions/Civil-Works/Navigation/RSET/SEF

REGIONAL ADDITIONS TO THE GENERAL CONDITIONS

General Condition 4. Migratory Bird Breeding Areas. Regional Addition: For additional information please contact the US Fish and Wildlife Service at the following field office locations: State Office (Boise) at (208) 387-5243; Northern Idaho Field Office (Spokane) at (509) 891-6839; or the Eastern Idaho Field Office (Chubbuck) at (208) 237-6975. https://www.fws.gov/idaho/promo.cfm?id= 177175802

General Condition 6. Suitable Material. Regional Addition: Erosion control blanket or fabric used in or adjacent to waters of the U.S. shall be comprised of biodegradable material, to ensure decomposition and reduced risk to fish, wildlife and public safety, unless conditioned otherwise. If the applicant proposes to use materials other than as indicated above they must demonstrate how the use of such materials will not cause harm to fish, wildlife and public safety.

General Condition 9. Management of Water Flows. Regional Addition: To obtain information on State of Idaho definition of high water refer to Idaho Department of Water Resources (IDAPA 37.03.07. Rule 62.03.04.a). For culverts or bridges located in a community qualifying for the national flood insurance program, the minimum size culvert shall accommodate the 100-year flood design flow frequency (IDAPA 37.03.07. Rule 62.03.04.c).

General Condition 12. Soil Erosion and Sediment Controls. Regional Addition: For additional information refer to the Idaho Department of Environmental Quality Catalog of Stormwater Best Management Practices for Idaho Cities and Counties, available online at: https://www.deq.idaho.gov/public-information/laws-guidance-and-orders/guidance/.

General Condition 18. Endangered Species. Regional Addition: For additional information on ESA listed species in north Idaho please contact the US Fish and Wildlife Service (USFWS) Northern Idaho Field Office (Spokane) at (509) 893-8009, for all other counties in Idaho contact the USFWS State Office (Boise) at (208) 378-5388.

General Condition 20. Historic Properties. Regional Addition: Property is generally considered “historic” if it is at least 50 years old, and is not limited to buildings. For additional information on the potential for cultural resources in proximity to the project site, contact the Idaho State Historic Preservation Office at (208) 334-3847 located in Boise, Idaho.

NOTIFICATION PROCEDURES BY THE CORPS FOR CERTAIN NATIONWIDE PERMITS

Waivers: For nationwide permits with a waiver provision, District coordination with Idaho Department of Environmental Quality (IDEQ) and Environmental Protection Agency (tribal lands) will be conducted prior to the District Engineer making a waiver determination to ensure the proposed activity is in compliance with Section 401 Water Quality Standards.

Select Waters and Wetlands: The Corps will coordinate with the Idaho Department of Fish and Game (IDFG) for activities in the following waters and wetlands that require notification and are authorized by NWP:

- Waters: Waters: Anadromous waters as shown on Figure 1: *Watersheds Requiring Pre-Construction Notification*, dated January 6, 2021; Henry's Fork of the Snake River and its tributaries; South Fork Snake River and its tributaries; Big Lost River and its tributaries upstream of the US 93 crossing; Beaver, Camas, and Medicine Lodge Creeks; Snake River; Blackfoot River above Blackfoot Reservoir; Portneuf River; Bear River; Boise River including South Fork, North Fork and Middle Fork; Payette River including South Fork, North Fork and Middle Fork; Coeur d'Alene River, including the North Fork; St. Joe River; Priest River; Kootenai River; Big Wood River; and Silver Creek and its tributaries.

- Wetlands identified in Idaho Department of Fish and Game, Wetland Conservation Strategy as Class I, Class II and Reference Habitat Sites[6].

- Wetlands identified in the Idaho Wetland Conservation Prioritization Plan-2012[7].

NWP 27-Aquatic Habitat Restoration, Establishment, and Enhancement Activities

Prior to verification, the Corps will coordinate the project with the Idaho Department of Fish and Game for activities in perennial, fish bearing streams.

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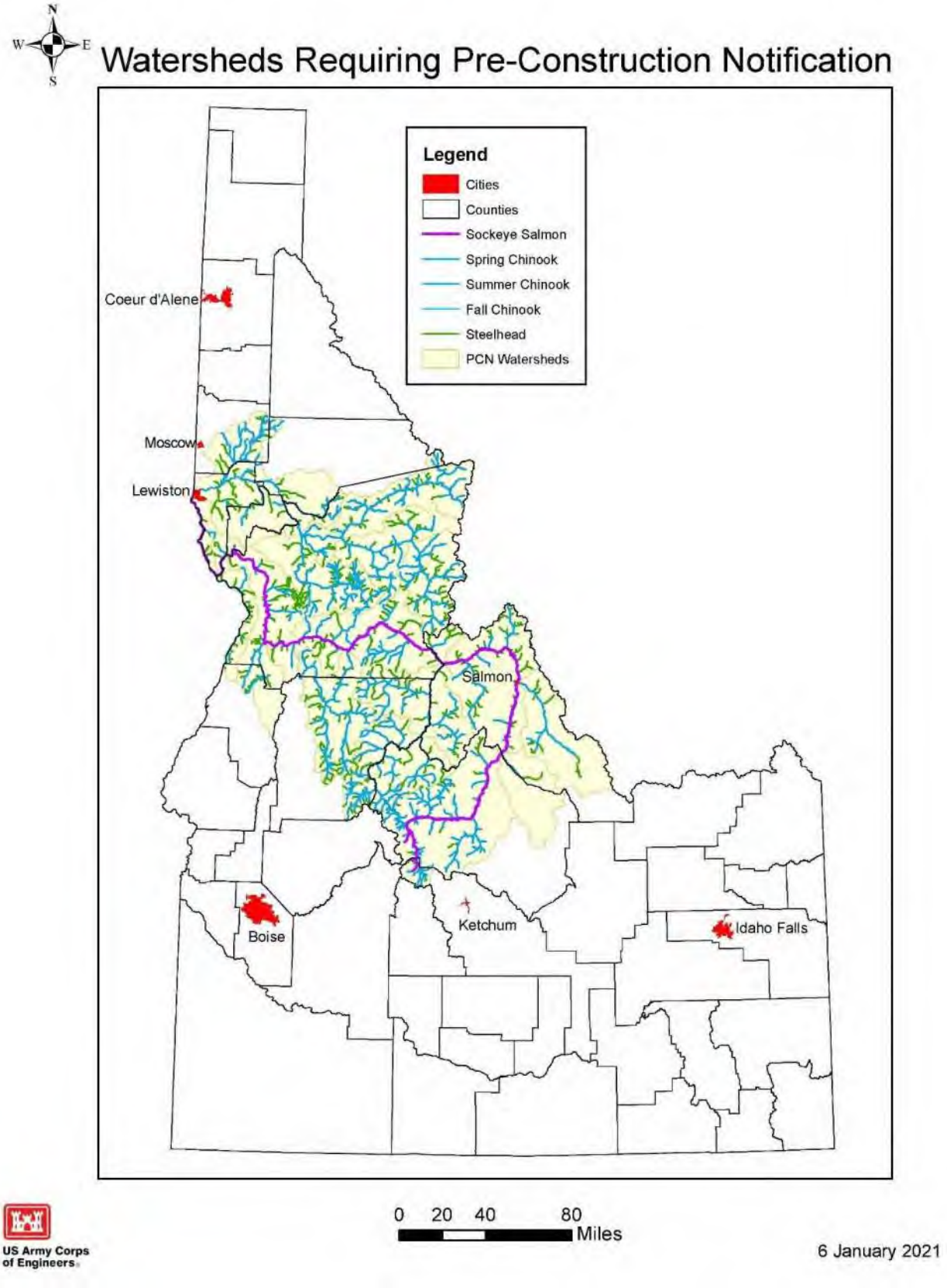
[6] Idaho Department of Fish and Game (IDFG) Wetland Conservation Strategies have been developed for the Henrys Fork Basin, Northern Idaho, Big Wood River, Southeast Idaho, East-Central Idaho and Spokane River Basin, Middle and Western Snake River and tributaries, and the Upper Snake River–Portneuf Drainage, Weiser River Basin, and West Central Mountain Valleys and adjacent wetlands. Closed basins of Beaver-Camas Creeks, Medicine Lodge Creek, Palouse River and lower Clearwater River sub-basins, Middle Fork and South Fork Clearwater Basins and Camas Prairie in northern Idaho. Refer to the internet site at: http://fishandgame.idaho.gov/content/page/wetlands-publications-idaho-natural-heritage-program#reports

[7] Murphy, C., J. Miller and A. Schmidt. 2012. https://parksandrecreation.idaho.gov/sites/default/files/uploads/documents/SCORTP/Update/Apdx%20.%20Wetlands%Priority%Plan%20(Part %20I)%Compressed1.pdf

Figure 1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W
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Watersheds Requiring Pre-Construction Notification
Legend
Cities
Counties
Sockeye Salmon
Spring Chinook
Summer Chinook
Fall Chinook
Steelhead
PCN Watersheds
Coeur d'Alene
Moscow
Lewiston
Salmon
Ketchum
Boise
Idaho Falls
0 20 40 80
Miles
US Army Corps of Engineers
6 January 2021

2021 Nationwide Permit General Conditions

Note: To qualify for NWP authorization, the prospective permittee must comply with the following general conditions, as applicable, in addition to any regional or case-specific conditions imposed by the division engineer or district engineer. Prospective permittees should contact the appropriate Corps district office to determine if regional conditions have been imposed on an NWP. Prospective permittees should also contact the appropriate Corps district office to determine the status of Clean Water Act Section 401 water quality certification and/or Coastal Zone Management Act consistency for an NWP. Every person who may wish to obtain permit authorization under one or more NWPs, or who is currently relying on an existing or prior permit authorization under one or more NWPs, has been and is on notice that all of the provisions of 33 CFR 330.1 through 330.6 apply to every NWP authorization. Note especially 33 CFR 330.5 relating to the modification, suspension, or revocation of any NWP authorization.

1. Navigation

(a) No activity may cause more than a minimal adverse effect on navigation.

(b) Any safety lights and signals prescribed by the U.S. Coast Guard, through regulations or otherwise, must be installed and maintained at the permittee's expense on authorized facilities in navigable waters of the United States.

(c) The permittee understands and agrees that, if future operations by the United States require the removal, relocation, or other alteration, of the structure or work herein authorized, or if, in the opinion of the Secretary of the Army or his or her authorized representative, said structure or work shall cause unreasonable obstruction to the free navigation of the navigable waters, the permittee will be required, upon due notice from the Corps of Engineers, to remove, relocate, or alter the structural work or obstructions caused thereby, without expense to the United States. No claim shall be made against the United States on account of any such removal or alteration.

2. Aquatic Life Movements

No activity may substantially disrupt the necessary life cycle movements of those species of aquatic life indigenous to the waterbody, including those species that normally migrate through the area, unless the activity's primary purpose is to impound water. All permanent and temporary crossings of waterbodies shall be suitably culverted, bridged, or otherwise designed and constructed to maintain low flows to sustain the movement of those aquatic species. If a bottomless culvert cannot be used, then the crossing should be designed and constructed to minimize adverse effects to aquatic life movements.

3. Spawning Areas

Activities in spawning areas during spawning seasons must be avoided to the maximum extent practicable. Activities that result in the physical destruction (e.g., through excavation, fill, or downstream smothering by substantial turbidity) of an important spawning area are not authorized.

4. Migratory Bird Breeding Areas

Activities in waters of the United States that serve as breeding areas for migratory birds must be avoided to the maximum extent practicable.

5. Shellfish Beds

No activity may occur in areas of concentrated shellfish populations, unless the activity is directly related to a shellfish harvesting activity authorized by NWPs 4 and 48, or is a shellfish seeding or habitat restoration activity authorized by NWP 27.

6. Suitable Material

No activity may use unsuitable material (e.g., trash, debris, car bodies, asphalt, etc.). Material used for construction or discharged must be free from toxic pollutants in toxic amounts (see section 307 of the Clean Water Act).

7. Water Supply Intakes

No activity may occur in the proximity of a public water supply intake, except where the activity is for the repair or improvement of public water supply intake structures or adjacent bank stabilization.

8. Adverse Effects From Impoundments

If the activity creates an impoundment of water, adverse effects to the aquatic system due to accelerating the passage of water, and/or restricting its flow must be minimized to the maximum extent practicable.

9. Management of Water Flows
To the maximum extent practicable, the pre-construction course, condition, capacity, and location of open waters must be maintained for each activity, including stream channelization, storm water management activities, and temporary and permanent road crossings, except as provided below. The activity must be constructed to withstand expected high flows. The activity must not restrict or impede the passage of normal or high flows, unless the primary purpose of the activity is to impound water or manage high flows. The activity may alter the pre-construction course, condition, capacity, and location of open waters if it benefits the aquatic environment (e.g., stream restoration or relocation activities).

10. Fills Within 100-Year Floodplains
The activity must comply with applicable FEMA-approved state or local floodplain management requirements.

11. Equipment
Heavy equipment working in wetlands or mudflats must be placed on mats, or other measures must be taken to minimize soil disturbance.

12. Soil Erosion and Sediment Controls
Appropriate soil erosion and sediment controls must be used and maintained in effective operating condition during construction, and all exposed soil and other fills, as well as any work below the ordinary high water mark or high tide line, must be permanently stabilized at the earliest practicable date. Permittees are encouraged to perform work within waters of the United States during periods of low-flow or no-flow, or during low tides.

13. Removal of Temporary Structures and Fills
Temporary structures must be removed, to the maximum extent practicable, after their use has been discontinued. Temporary fills must be removed in their entirety and the affected areas returned to pre-construction elevations. The affected areas must be revegetated, as appropriate.

14. Proper Maintenance
Any authorized structure or fill shall be properly maintained, including maintenance to ensure public safety and compliance with applicable NWP general conditions, as well as any activity-specific conditions added by the district engineer to an NWP authorization.

15. Single and Complete Project
The activity must be a single and complete project. The same NWP cannot be used more than once for the same single and complete project.

16. Wild and Scenic Rivers
(a) No NWP activity may occur in a component of the National Wild and Scenic River System, or in a river officially designated by Congress as a "study river" for possible inclusion in the system while the river is in an official study status, unless the appropriate Federal agency with direct management responsibility for such river, has determined in writing that the proposed activity will not adversely affect the Wild and Scenic River designation or study status.

(b) If a proposed NWP activity will occur in a component of the National Wild and Scenic River System, or in a river officially designated by Congress as a "study river" for possible inclusion in the system while the river is in an official study status, the permittee must submit a pre-construction notification (see general condition 32). The district engineer will coordinate the PCN with the Federal agency

with direct management responsibility for that river. Permittees shall not begin the NWP activity until notified by the district engineer that the Federal agency with direct management responsibility for that river has determined in writing that the proposed NWP activity will not adversely affect the Wild and Scenic River designation or study status.

(c) Information on Wild and Scenic Rivers may be obtained from the appropriate Federal land management agency responsible for the designated Wild and Scenic River or study river (e.g., National Park Service, U.S. Forest Service, Bureau of Land Management, U.S. Fish and Wildlife Service). Information on these rivers is also available at: http://www.rivers.gov/.

17. Tribal Rights

No activity or its operation may impair reserved tribal rights, including, but not limited to, reserved water rights and treaty fishing and hunting rights.

18. Endangered Species

(a) No activity is authorized under any NWP which is likely to directly or indirectly jeopardize the continued existence of a threatened or endangered species or a species proposed for such designation, as identified under the Federal Endangered Species Act (ESA), or which will directly or indirectly destroy or adversely modify designated critical habitat or critical habitat proposed for such designation. No activity is authorized under any NWP which "may affect" a listed species or critical habitat, unless ESA section 7 consultation addressing the consequences of the proposed activity on listed species or critical habitat has been completed. See 50 CFR 402.02 for the definition of "effects of the action" for the purposes of ESA section 7 consultation, as well as 50 CFR 402.17, which provides further explanation under ESA section 7 regarding "activities that are reasonably certain to occur" and "consequences caused by the proposed action."

(b) Federal agencies should follow their own procedures for complying with the requirements of the ESA (see 33 CFR 330.4(f)(1)). If pre-construction notification is required for the proposed activity, the Federal permittee must provide the district engineer with the appropriate documentation to demonstrate compliance with those requirements. The district engineer will verify that the appropriate documentation has been submitted. If the appropriate documentation has not been submitted, additional ESA section 7 consultation may be necessary for the activity and the respective federal agency would be responsible for fulfilling its obligation under section 7 of the ESA.

(c) Non-federal permittees must submit a pre-construction notification to the district engineer if any listed species (or species proposed for listing) or designated critical habitat (or critical habitat proposed such designation) might be affected or is in the vicinity of the activity, or if the activity is located in designated critical habitat or critical habitat proposed for such designation, and shall not begin work on the activity until notified by the district engineer that the requirements of the ESA have been satisfied and that the activity is authorized. For activities that might affect Federally-listed endangered or threatened species (or species proposed for listing) or designated critical habitat (or critical habitat proposed for such designation), the pre-construction notification must include the name(s) of the endangered or threatened species (or species proposed for listing) that might be affected by the proposed activity or that utilize the designated critical habitat (or critical habitat proposed for such designation) that might be

affected by the proposed activity. The district engineer will determine whether the proposed activity "may affect" or will have "no effect" to listed species and designated critical habitat and will notify the non-Federal applicant of the Corps' determination within 45 days of receipt of a complete pre-construction notification. For activities where the non-Federal applicant has identified listed species (or species proposed for listing) or designated critical habitat (or critical habitat proposed for such designation) that might be affected or is in the vicinity of the activity, and has so notified the Corps, the applicant shall not begin work until the Corps has provided notification that the proposed activity will have "no effect" on listed species (or species proposed for listing or designated critical habitat (or critical habitat proposed for such designation), or until ESA section 7 consultation or conference has been completed. If the non-Federal applicant has not heard back from the Corps within 45 days, the applicant must still wait for notification from the Corps.

(d) As a result of formal or informal consultation or conference with the FWS or NMFS the district engineer may add species-specific permit conditions to the NWPs.

(e) Authorization of an activity by an NWP does not authorize the "take" of a threatened or endangered species as defined under the ESA. In the absence of separate authorization (e.g., an ESA Section 10 Permit, a Biological Opinion with "incidental take" provisions, etc.) from the FWS or the NMFS, the Endangered Species Act prohibits any person subject to the jurisdiction of the United States to take a listed species, where "take" means to harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect, or to attempt to engage in any such conduct. The word "harm" in the definition of "take'' means an act which actually kills or injures wildlife. Such an act may include significant habitat modification or degradation where it actually kills or injures wildlife by significantly impairing essential behavioral patterns, including breeding, feeding or sheltering.

(f) If the non-federal permittee has a valid ESA section 10(a)(1)(B) incidental take permit with an approved Habitat Conservation Plan for a project or a group of projects that includes the proposed NWP activity, the non-federal applicant should provide a copy of that ESA section 10(a)(1)(B) permit with the PCN required by paragraph (c) of this general condition. The district engineer will coordinate with the agency that issued the ESA section 10(a)(1)(B) permit to determine whether the proposed NWP activity and the associated incidental take were considered in the internal ESA section 7 consultation conducted for the ESA section 10(a)(1)(B) permit. If that coordination results in concurrence from the agency that the proposed NWP activity and the associated incidental take were considered in the internal ESA section 7 consultation for the ESA section 10(a)(1)(B) permit, the district engineer does not need to conduct a separate ESA section 7 consultation for the proposed NWP activity. The district engineer will notify the non-federal applicant within 45 days of receipt of a complete pre-construction notification whether the ESA section 10(a)(1)(B) permit covers the proposed NWP activity or whether additional ESA section 7 consultation is required.

(g) Information on the location of threatened and endangered species and their critical habitat can be obtained directly from the offices of the FWS and NMFS or their world wide web pages at

http://www.fws.gov/ or http://www.fws.gov/ipac and http://www.nmfs.noaa.gov/pr/species/esa/ respectively.

19. Migratory Birds and Bald and Golden Eagles

The permittee is responsible for ensuring that an action authorized by an NWP complies with the Migratory Bird Treaty Act and the Bald and Golden Eagle Protection Act. The permittee is responsible for contacting the appropriate local office of the U.S. Fish and Wildlife Service to determine what measures, if any, are necessary or appropriate to reduce adverse effects to migratory birds or eagles, including whether "incidental take" permits are necessary and available under the Migratory Bird Treaty Act or Bald and Golden Eagle Protection Act for a particular activity.

20. Historic Properties

(a) No activity is authorized under any NWP which may have the potential to cause effects to properties listed, or eligible for listing, in the National Register of Historic Places until the requirements of Section 106 of the National Historic Preservation Act (NHPA) have been satisfied.

(b) Federal permittees should follow their own procedures for complying with the requirements of section 106 of the National Historic Preservation Act (see 33 CFR 330.4(g)(1)). If pre-construction notification is required for the proposed NWP activity, the Federal permittee must provide the district engineer with the appropriate documentation to demonstrate compliance with those requirements. The district engineer will verify that the appropriate documentation has been submitted. If the appropriate documentation is not submitted, then additional consultation under section 106 may be necessary. The respective federal agency is responsible for fulfilling its obligation to comply with section 106.

(c) Non-federal permittees must submit a pre-construction notification to the district engineer if the NWP activity might have the potential to cause effects to any historic properties listed on, determined to be eligible for listing on, or potentially eligible for listing on the National Register of Historic Places, including previously unidentified properties. For such activities, the pre-construction notification must state which historic properties might have the potential to be affected by the proposed NWP activity or include a vicinity map indicating the location of the historic properties or the potential for the presence of historic properties. Assistance regarding information on the location of, or potential for, the presence of historic properties can be sought from the State Historic Preservation Officer, Tribal Historic Preservation Officer, or designated tribal representative, as appropriate, and the National Register of Historic Places (see 33 CFR 330.4(g)). When reviewing pre-construction notifications, district engineers will comply with the current procedures for addressing the requirements of section 106 of the National Historic Preservation Act. The district engineer shall make a reasonable and good faith effort to carry out appropriate identification efforts commensurate with potential impacts, which may include background research, consultation, oral history interviews, sample field investigation, and/or field survey. Based on the information submitted in the PCN and these identification efforts, the district engineer shall determine whether the proposed NWP activity has the potential to cause effects on the historic properties. Section 106 consultation is not required when the district engineer determines that the activity does not have the potential to cause effects on historic properties (see 36 CFR 800.3(a)).

Section 106 consultation is required when the district engineer determines that the activity has the potential to cause effects on historic properties. The district engineer will conduct consultation with consulting parties identified under 36 CFR 800.2(c) when he or she makes any of the following effect determinations for the purposes of section 106 of the NHPA: no historic properties affected, no adverse effect, or adverse effect.

(d) Where the non-Federal applicant has identified historic properties on which the proposed NWP activity might have the potential to cause effects and has so notified the Corps, the non-Federal applicant shall not begin the activity until notified by the district engineer either that the activity has no potential to cause effects to historic properties or that NHPA section 106 consultation has been completed. For non-federal permittees, the district engineer will notify the prospective permittee within 45 days of receipt of a complete pre-construction notification whether NHPA section 106 consultation is required. If NHPA section 106 consultation is required, the district engineer will notify the non-Federal applicant that he or she cannot begin the activity until section 106 consultation is completed. If the non-Federal applicant has not heard back from the Corps within 45 days, the applicant must still wait for notification from the Corps.

(e) Prospective permittees should be aware that section 110k of the NHPA (54 U.S.C. 306113) prevents the Corps from granting a permit or other assistance to an applicant who, with intent to avoid the requirements of section 106 of the NHPA, has intentionally significantly adversely affected a historic property to which the permit would relate, or having legal power to prevent it, allowed such significant adverse effect to occur, unless the Corps, after consultation with the Advisory Council on Historic Preservation (ACHP), determines that circumstances justify granting such assistance despite the adverse effect created or permitted by the applicant. If circumstances justify granting the assistance, the Corps is required to notify the ACHP and provide documentation specifying the circumstances, the degree of damage to the integrity of any historic properties affected, and proposed mitigation. This documentation must include any views obtained from the applicant, SHPO/THPO, appropriate Indian tribes if the undertaking occurs on or affects historic properties on tribal lands or affects properties of interest to those tribes, and other parties known to have a legitimate interest in the impacts to the permitted activity on historic properties.

21. Discovery of Previously Unknown Remains and Artifacts

Permittees that discover any previously unknown historic, cultural or archeological remains and artifacts while accomplishing the activity authorized by an NWP, they must immediately notify the district engineer of what they have found, and to the maximum extent practicable, avoid construction activities that may affect the remains and artifacts until the required coordination has been completed. The district engineer will initiate the Federal, Tribal, and state coordination required to determine if the items or remains warrant a recovery effort or if the site is eligible for listing in the National Register of Historic Places.

22. Designated Critical Resource Waters

Critical resource waters include, NOAA-managed marine sanctuaries and marine monuments, and National Estuarine Research Reserves. The district engineer may designate, after notice and opportunity for public comment,

additional waters officially designated by a state as having particular environmental or ecological significance, such as outstanding national resource waters or state natural heritage sites. The district engineer may also designate additional critical resource waters after notice and opportunity for public comment.

(a) Discharges of dredged or fill material into waters of the United States are not authorized by NWPs 7, 12, 14, 16, 17, 21, 29, 31, 35, 39, 40, 42, 43, 44, 49, 50, 51, 52, 57 and 58 for any activity within, or directly affecting, critical resource waters, including wetlands adjacent to such waters.

(b) For NWPs 3, 8, 10, 13, 15, 18, 19, 22, 23, 25, 27, 28, 30, 33, 34, 36, 37, 38, and 54, notification is required in accordance with general condition 32, for any activity proposed by permittees in the designated critical resource waters including wetlands adjacent to those waters. The district engineer may authorize activities under these NWPs only after she or he determines that the impacts to the critical resource waters will be no more than minimal.

23. <u>Mitigation</u>

The district engineer will consider the following factors when determining appropriate and practicable mitigation necessary to ensure that the individual and cumulative adverse environmental effects are no more than minimal:

(a) The activity must be designed and constructed to avoid and minimize adverse effects, both temporary and permanent, to waters of the United States to the maximum extent practicable at the project site (i.e., on site).

(b) Mitigation in all its forms (avoiding, minimizing, rectifying, reducing, or compensating for resource losses) will be required to the extent necessary to ensure that the individual and cumulative adverse environmental effects are no more than minimal.

(c) Compensatory mitigation at a minimum one-for-one ratio will be required for all wetland losses that exceed 1/10-acre and require pre-construction notification, unless the district engineer determines in writing that either some other form of mitigation would be more environmentally appropriate or the adverse environmental effects of the proposed activity are no more than minimal, and provides an activity-specific waiver of this requirement. For wetland losses of 1/10-acre or less that require pre-construction notification, the district engineer may determine on a case-by-case basis that compensatory mitigation is required to ensure that the activity results in only minimal adverse environmental effects.

(d) Compensatory mitigation at a minimum one-for-one ratio will be required for all losses of stream bed that exceed 3/100-acre and require pre-construction notification, unless the district engineer determines in writing that either some other form of mitigation would be more environmentally appropriate or the adverse environmental effects of the proposed activity are no more than minimal, and provides an activity-specific waiver of this requirement. This compensatory mitigation requirement may be satisfied through the restoration or enhancement of riparian areas next to streams in accordance with paragraph (e) of this general condition. For losses of stream bed of 3/100-acre or less that require pre-construction notification, the district engineer may determine on a case-by-case basis that compensatory mitigation is required to ensure that the activity results in only minimal adverse environmental effects. Compensatory mitigation for losses of

streams should be provided, if practicable, through stream rehabilitation, enhancement, or preservation, since streams are difficult-to-replace resources (see 33 CFR 332.3(e)(3)).

(e) Compensatory mitigation plans for NWP activities in or near streams or other open waters will normally include a requirement for the restoration or enhancement, maintenance, and legal protection (e.g., conservation easements) of riparian areas next to open waters. In some cases, the restoration or maintenance/protection of riparian areas may be the only compensatory mitigation required. If restoring riparian areas involves planting vegetation, only native species should be planted. The width of the required riparian area will address documented water quality or aquatic habitat loss concerns. Normally, the riparian area will be 25 to 50 feet wide on each side of the stream, but the district engineer may require slightly wider riparian areas to address documented water quality or habitat loss concerns. If it is not possible to restore or maintain/protect a riparian area on both sides of a stream, or if the waterbody is a lake or coastal waters, then restoring or maintaining/protecting a riparian area along a single bank or shoreline may be sufficient. Where both wetlands and open waters exist on the project site, the district engineer will determine the appropriate compensatory mitigation (e.g., riparian areas and/or wetlands compensation) based on what is best for the aquatic environment on a watershed basis. In cases where riparian areas are determined to be the most appropriate form of minimization or compensatory mitigation, the district engineer may waive or reduce the requirement to provide wetland compensatory mitigation for wetland losses.

(f) Compensatory mitigation projects provided to offset losses of aquatic resources must comply with the applicable provisions of 33 CFR part 332.

(1) The prospective permittee is responsible for proposing an appropriate compensatory mitigation option if compensatory mitigation is necessary to ensure that the activity results in no more than minimal adverse environmental effects. For the NWPs, the preferred mechanism for providing compensatory mitigation is mitigation bank credits or in-lieu fee program credits (see 33 CFR 332.3(b)(2) and (3)). However, if an appropriate number and type of mitigation bank or in-lieu credits are not available at the time the PCN is submitted to the district engineer, the district engineer may approve the use of permittee-responsible mitigation.

(2) The amount of compensatory mitigation required by the district engineer must be sufficient to ensure that the authorized activity results in no more than minimal individual and cumulative adverse environmental effects (see 33 CFR 330.1(e)(3)). (See also 33 CFR 332.3(f).)

(3) Since the likelihood of success is greater and the impacts to potentially valuable uplands are reduced, aquatic resource restoration should be the first compensatory mitigation option considered for permittee-responsible mitigation.

(4) If permittee-responsible mitigation is the proposed option, the prospective permittee is responsible for submitting a mitigation plan. A conceptual or detailed mitigation plan may be used by the district engineer to make the decision on the NWP verification request, but a final mitigation plan that addresses the applicable requirements of 33 CFR 332.4(c)(2) through (14)

must be approved by the district engineer before the permittee begins work in waters of the United States, unless the district engineer determines that prior approval of the final mitigation plan is not practicable or not necessary to ensure timely completion of the required compensatory mitigation (see 33 CFR 332.3(k)(3)). If permittee-responsible mitigation is the proposed option, and the proposed compensatory mitigation site is located on land in which another federal agency holds an easement, the district engineer will coordinate with that federal agency to determine if proposed compensatory mitigation project is compatible with the terms of the easement.

(5) If mitigation bank or in-lieu fee program credits are the proposed option, the mitigation plan needs to address only the baseline conditions at the impact site and the number of credits to be provided (see 33 CFR 332.4(c)(1)(ii)).

(6) Compensatory mitigation requirements (e.g., resource type and amount to be provided as compensatory mitigation, site protection, ecological performance standards, monitoring requirements) may be addressed through conditions added to the NWP authorization, instead of components of a compensatory mitigation plan (see 33 CFR 332.4(c)(1)(ii)).

(g) Compensatory mitigation will not be used to increase the acreage losses allowed by the acreage limits of the NWPs. For example, if an NWP has an acreage limit of 1/2-acre, it cannot be used to authorize any NWP activity resulting in the loss of greater than 1/2-acre of waters of the United States, even if compensatory mitigation is provided that replaces or restores some of the lost waters. However, compensatory mitigation can and should be used, as necessary, to ensure that an NWP activity already meeting the established acreage limits also satisfies the no more than minimal impact requirement for the NWPs.

(h) Permittees may propose the use of mitigation banks, in-lieu fee programs, or permittee-responsible mitigation. When developing a compensatory mitigation proposal, the permittee must consider appropriate and practicable options consistent with the framework at 33 CFR 332.3(b). For activities resulting in the loss of marine or estuarine resources, permittee-responsible mitigation may be environmentally preferable if there are no mitigation banks or in-lieu fee programs in the area that have marine or estuarine credits available for sale or transfer to the permittee. For permittee-responsible mitigation, the special conditions of the NWP verification must clearly indicate the party or parties responsible for the implementation and performance of the compensatory mitigation project, and, if required, its long-term management.

(i) Where certain functions and services of waters of the United States are permanently adversely affected by a regulated activity, such as discharges of dredged or fill material into waters of the United States that will convert a forested or scrub-shrub wetland to a herbaceous wetland in a permanently maintained utility line right-of-way, mitigation may be required to reduce the adverse environmental effects of the activity to the no more than minimal level.

24. <u>Safety of Impoundment Structures</u>

To ensure that all impoundment structures are safely designed, the district engineer may require non-Federal applicants to demonstrate that the structures comply with established state or federal, dam safety criteria or have

been designed by qualified persons. The district engineer may also require documentation that the design has been independently reviewed by similarly qualified persons, and appropriate modifications made to ensure safety.

25. Water Quality

(a) Where the certifying authority (state, authorized tribe, or EPA, as appropriate) has not previously certified compliance of an NWP with CWA section 401, a CWA section 401 water quality certification for the proposed discharge must be obtained or waived (see 33 CFR 330.4(c)). If the permittee cannot comply with all of the conditions of a water quality certification previously issued by certifying authority for the issuance of the NWP, then the permittee must obtain a water quality certification or waiver for the proposed discharge in order for the activity to be authorized by an NWP.

(b) If the NWP activity requires pre-construction notification and the certifying authority has not previously certified compliance of an NWP with CWA section 401, the proposed discharge is not authorized by an NWP until water quality certification is obtained or waived. If the certifying authority issues a water quality certification for the proposed discharge, the permittee must submit a copy of the certification to the district engineer. The discharge is not authorized by an NWP until the district engineer has notified the permittee that the water quality certification requirement has been satisfied by the issuance of a water quality certification or a waiver.

(c) The district engineer or certifying authority may require additional water quality management measures to ensure that the authorized activity does not result in more than minimal degradation of water quality.

26. Coastal Zone Management.

In coastal states where an NWP has not previously received a state coastal zone management consistency concurrence, an individual state coastal zone management consistency concurrence must be obtained, or a presumption of concurrence must occur (see 33 CFR 330.4(d)). If the permittee cannot comply with all of the conditions of a coastal zone management consistency concurrence previously issued by the state, then the permittee must obtain an individual coastal zone management consistency concurrence or presumption of concurrence in order for the activity to be authorized by an NWP. The district engineer or a state may require additional measures to ensure that the authorized activity is consistent with state coastal zone management requirements.

27. Regional and Case-By-Case Conditions

The activity must comply with any regional conditions that may have been added by the Division Engineer (see 33 CFR 330.4(e)) and with any case specific conditions added by the Corps or by the state, Indian Tribe, or U.S. EPA in its CWA section 401 Water Quality Certification, or by the state in its Coastal Zone Management Act consistency determination.

28. Use of Multiple Nationwide Permits

The use of more than one NWP for a single and complete project is authorized, subject to the following restrictions:

(a) If only one of the NWPs used to authorize the single and complete project has a specified acreage limit, the acreage loss of waters of the United States cannot exceed the acreage limit of the NWP with the highest specified acreage limit. For example, if a road crossing over tidal waters is constructed under NWP 14, with associated

bank stabilization authorized by NWP 13, the maximum acreage loss of waters of the United States for the total project cannot exceed 1⁄3-acre.

(b) If one or more of the NWPs used to authorize the single and complete project has specified acreage limits, the acreage loss of waters of the United States authorized by those NWPs cannot exceed their respective specified acreage limits. For example, if a commercial development is constructed under NWP 39, and the single and complete project includes the filling of an upland ditch authorized by NWP 46, the maximum acreage loss of waters of the United States for the commercial development under NWP 39 cannot exceed 1/2-acre, and the total acreage loss of waters of United States due to the NWP 39 and 46 activities cannot exceed 1 acre.

29. Transfer of Nationwide Permit Verifications

If the permittee sells the property associated with a nationwide permit verification, the permittee may transfer the nationwide permit verification to the new owner by submitting a letter to the appropriate Corps district office to validate the transfer. A copy of the nationwide permit verification must be attached to the letter, and the letter must contain the following statement and signature:

"When the structures or work authorized by this nationwide permit are still in existence at the time the property is transferred, the terms and conditions of this nationwide permit, including any special conditions, will continue to be binding on the new owner(s) of the property. To validate the transfer of this nationwide permit and the associated liabilities associated with compliance with its terms and conditions, have the transferee sign and date below."

_____

_____

(Transferee)

_____

_____

(Date)

30. Compliance Certification

Each permittee who receives an NWP verification letter from the Corps must provide a signed certification documenting completion of the authorized activity and implementation of any required compensatory mitigation. The success of any required permittee-responsible mitigation, including the achievement of ecological performance standards, will be addressed separately by the district engineer. The Corps will provide the permittee the certification document with the NWP verification letter. The certification document will include:

(a) A statement that the authorized activity was done in accordance with the NWP authorization, including any general, regional, or activity-specific conditions;

(b) A statement that the implementation of any required compensatory mitigation was completed in accordance with the permit conditions. If credits from a mitigation bank or in-lieu fee program are used to satisfy the compensatory mitigation requirements, the certification must include the documentation required by 33 CFR 332.3(l)(3) to confirm that the permittee secured the appropriate number and resource type of credits; and

(c) The signature of the permittee certifying the completion of the activity and mitigation.

The completed certification document must be submitted to the district engineer within 30 days of completion of the authorized activity or the implementation of any required compensatory

mitigation, whichever occurs later.

31. Activities Affecting Structures or Works Built by the United States

If an NWP activity also requires review by, or permission from, the Corps pursuant to 33 U.S.C. 408 because it will alter or temporarily or permanently occupy or use a U.S. Army Corps of Engineers (USACE) federally authorized Civil Works project (a "USACE project"), the prospective permittee must submit a pre-construction notification. See paragraph (b)(10) of general condition 32. An activity that requires section 408 permission and/or review is not authorized by an NWP until the appropriate Corps office issues the section 408 permission or completes its review to alter, occupy, or use the USACE project, and the district engineer issues a written NWP verification.

32. Pre-Construction Notification

(a) *Timing*. Where required by the terms of the NWP, the prospective permittee must notify the district engineer by submitting a pre-construction notification (PCN) as early as possible. The district engineer must determine if the PCN is complete within 30 calendar days of the date of receipt and, if the PCN is determined to be incomplete, notify the prospective permittee within that 30 day period to request the additional information necessary to make the PCN complete. The request must specify the information needed to make the PCN complete. As a general rule, district engineers will request additional information necessary to make the PCN complete only once. However, if the prospective permittee does not provide all of the requested information, then the district engineer will notify the prospective permittee that the PCN is still incomplete and the PCN review process will not commence until all of the requested information has been received by the district engineer. The prospective permittee shall not begin the activity until either:

(1) He or she is notified in writing by the district engineer that the activity may proceed under the NWP with any special conditions imposed by the district or division engineer; or

(2) 45 calendar days have passed from the district engineer's receipt of the complete PCN and the prospective permittee has not received written notice from the district or division engineer. However, if the permittee was required to notify the Corps pursuant to general condition 18 that listed species or critical habitat might be affected or are in the vicinity of the activity, or to notify the Corps pursuant to general condition 20 that the activity might have the potential to cause effects to historic properties, the permittee cannot begin the activity until receiving written notification from the Corps that there is "no effect" on listed species or "no potential to cause effects" on historic properties, or that any consultation required under Section 7 of the Endangered Species Act (see 33 CFR 330.4(f)) and/or section 106 of the National Historic Preservation Act (see 33 CFR 330.4(g)) has been completed. If the proposed activity requires a written waiver to exceed specified limits of an NWP, the permittee may not begin the activity until the district engineer issues the waiver. If the district or division engineer notifies the permittee in writing that an individual permit is required within 45 calendar days of receipt of a complete PCN, the permittee cannot begin the activity until an individual permit has been obtained. Subsequently, the permittee's right to proceed under the NWP may be modified, suspended, or revoked only in accordance with the procedure set forth in 33 CFR 330.5(d)(2).

(b) *Contents of Pre-Construction Notification*: The PCN must be in writing and include the following information:

(1) Name, address and telephone numbers of the prospective permittee;

(2) Location of the proposed activity;

(3) Identify the specific NWP or NWP(s) the prospective permittee wants to use to authorize the proposed activity;

(4) (i) A description of the proposed activity; the activity's purpose; direct and indirect adverse environmental effects the activity would cause, including the anticipated amount of loss of wetlands, other special aquatic sites, and other waters expected to result from the NWP activity, in acres, linear feet, or other appropriate unit of measure; a description of any proposed mitigation measures intended to reduce the adverse environmental effects caused by the proposed activity; and any other NWP(s), regional general permit(s), or individual permit(s) used or intended to be used to authorize any part of the proposed project or any related activity, including other separate and distant crossings for linear projects that require Department of the Army authorization but do not require pre-construction notification. The description of the proposed activity and any proposed mitigation measures should be sufficiently detailed to allow the district engineer to determine that the adverse environmental effects of the activity will be no more than minimal and to determine the need for compensatory mitigation or other mitigation measures.

(ii) For linear projects where one or more single and complete crossings require pre-construction notification, the PCN must include the quantity of anticipated losses of wetlands, other special aquatic sites, and other waters for each single and complete crossing of those wetlands, other special aquatic sites, and other waters (including those single and complete crossings authorized by an NWP but do not require PCNs). This information will be used by the district engineer to evaluate the cumulative adverse environmental effects of the proposed linear project, and does not change those non-PCN NWP activities into NWP PCNs.

(iii) Sketches should be provided when necessary to show that the activity complies with the terms of the NWP. (Sketches usually clarify the activity and when provided results in a quicker decision. Sketches should contain sufficient detail to provide an illustrative description of the proposed activity (e.g., a conceptual plan), but do not need to be detailed engineering plans);

(5) The PCN must include a delineation of wetlands, other special aquatic sites, and other waters, such as lakes and ponds, and perennial and intermittent streams, on the project site. Wetland delineations must be prepared in accordance with the current method required by the Corps. The permittee may ask the Corps to delineate the special aquatic sites and other waters on the project site, but there may be a delay if the Corps does the delineation, especially if the project site is large or contains many wetlands, other special aquatic sites, and other waters. Furthermore, the 45-day period will not start until the delineation has been submitted to or completed by the Corps, as appropriate;

(6) If the proposed activity will result in the loss of greater than 1/10-acre of wetlands or 3/100-acre of stream bed and a PCN is required, the prospective permittee must submit a statement describing how the mitigation requirement will be satisfied, or explaining

why the adverse environmental effects are no more than minimal and why compensatory mitigation should not be required. As an alternative, the prospective permittee may submit a conceptual or detailed mitigation plan.

(7) For non-federal permittees, if any listed species (or species proposed for listing) or designated critical habitat (or critical habitat proposed for such designation) might be affected or is in the vicinity of the activity, or if the activity is located in designated critical habitat (or critical habitat proposed for such designation), the PCN must include the name(s) of those endangered or threatenedspecies (or species proposed for listing) that might be affected by the proposed activity or utilize the designated critical habitat (or critical habitat proposed for such designation) that might be affected by the proposed activity. For NWP activities that require pre-construction notification, Federal permittees must provide documentation demonstrating compliance with the Endangered Species Act;

(8) For non-federal permittees, if the NWP activity might have the potential to cause effects to a historic property listed on, determined to be eligible for listing on, or potentially eligible for listing on, the National Register of Historic Places, the PCN must state which historic property might have the potential to be affected by the proposed activity or include a vicinity map indicating the location of the historic property. For NWP activities that require pre-construction notification, Federal permittees must provide documentation demonstrating compliance with section 106 of the National Historic Preservation Act;

(9) For an activity that will occur in a component of the National Wild and Scenic River System, or in a river officially designated by Congress as a "study river" for possible inclusion in the system while the river is in an official study status, the PCN must identify the Wild and Scenic River or the "study river" (see general condition 16); and

(10) For an NWP activity that requires permission from, or review by, the Corps pursuant to 33 U.S.C. 408 because it will alter or temporarily or permanently occupy or use a U.S. Army Corps of Engineers federally authorized civil works project, the pre-construction notification must include a statement confirming that the project proponent has submitted a written request for section 408 permission from, or review by, the Corps office having jurisdiction over that USACE project.

(c) *Form of Pre-Construction Notification*: The nationwide permit pre-construction notification form (Form ENG 6082) should be used for NWP PCNs. A letter containing the required information may also be used. Applicants may provide electronic files of PCNs and supporting materials if the district engineer has established tools and procedures for electronic submittals.

(d) *Agency Coordination*: (1) The district engineer will consider any comments from Federal and state agencies concerning the proposed activity's compliance with the terms and conditions of the NWPs and the need for mitigation to reduce the activity's adverse environmental effects so that they are no more than minimal.

(2) Agency coordination is required for: (i) all NWP activities that require pre-construction notification and result in the loss of greater than 1/2-acre of waters of the United States; (ii) NWP 13 activities in excess of 500 linear feet, fills greater than one cubic yard per running foot, or involve discharges of dredged or fill material into special aquatic sites; and (iii)

NWP 54 activities in excess of 500 linear feet, or that extend into the waterbody more than 30 feet from the mean low water line in tidal waters or the ordinary high water mark in the Great Lakes.

(3) When agency coordination is required, the district engineer will immediately provide (e.g., via e-mail, facsimile transmission, overnight mail, or other expeditious manner) a copy of the complete PCN to the appropriate Federal or state offices (FWS, state natural resource or water quality agency, EPA, and, if appropriate, the NMFS). With the exception of NWP 37, these agencies will have 10 calendar days from the date the material is transmitted to notify the district engineer via telephone, facsimile transmission, or e-mail that they intend to provide substantive, site-specific comments. The comments must explain why the agency believes the adverse environmental effects will be more than minimal. If so contacted by an agency, the district engineer will wait an additional 15 calendar days before making a decision on the pre-construction notification. The district engineer will fully consider agency comments received within the specified time frame concerning the proposed activity's compliance with the terms and conditions of the NWPs, including the need for mitigation to ensure that the net adverse environmental effects of the proposed activity are no more than minimal. The district engineer will provide no response to the resource agency, except as provided below. The district engineer will indicate in the administrative record associated with each pre-construction notification that the resource agencies' concerns were considered. For NWP 37, the emergency watershed protection and rehabilitation activity may proceed immediately in cases where there is an unacceptable hazard to life or a significant loss of property or economic hardship will occur. The district engineer will consider any comments received to decide whether the NWP 37 authorization should be modified, suspended, or revoked in accordance with the procedures at 33 CFR 330.5.

(4) In cases of where the prospective permittee is not a Federal agency, the district engineer will provide a response to NMFS within 30 calendar days of receipt of any Essential Fish Habitat conservation recommendations, as required by section 305(b)(4)(B) of the Magnuson-Stevens Fishery Conservation and Management Act.

(5) Applicants are encouraged to provide the Corps with either electronic files or multiple copies of pre-construction notifications to expedite agency coordination.

STATE OF IDAHO
DEPARTMENT OF
ENVIRONMENTAL QUALITY

1410 N Hilton Street, Boise, ID 83706
(208) 373-0502

Brad Little, Governor
Jess Byrne, Director

December 4, 2020

Kelly J. Urbanek, Chief
U.S. ACOE Regulatory Division
Walla Walla District
720 East Park Boulevard, Suite 245
Boise, Idaho 83712-7757

Subject: Final §401 Water Quality Certification for 2020 Nationwide Permits in Idaho

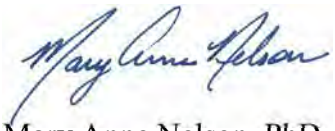
Dear Ms. Urbanek:

Enclosed please find the Idaho Department of Environmental Quality (DEQ) final water quality certification for the 2020 Nationwide Permits in Idaho. DEQ offered a 21-day public comment period, beginning on November 2, 2020, and ending on November 23, 2020.

DEQ received a single comment letter. After review of the comments received, minor modifications were made to the final certification in order to provide additional clarity.

If you have any questions or concerns regarding this certification, please contact Jason Pappani at (208) 373-0515 or via email at jason.pappani@deq.idaho.gov.

Sincerely,



Mary Anne Nelson, PhD
Surface and Wastewater Division Administrator

MAN:JP:lf

cc: Jason Pappani, DEQ State Office
DEQ Regional Administrators
James Joyner, ACOE Walla Walla District
Brent King, Idaho Attorney General's Office

Idaho Department of Environmental Quality

Final §401 Water Quality Certification

December 4, 2020

2020 U.S. Army Corps of Engineers §404 Nationwide Permits (NWPs)

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 activities receiving Section 404 dredge and fill permits and issue water quality certification decisions.

Based upon its review of the proposed 2020 Nationwide Permits published in the Federal Register on September 15, 2020, DEQ certifies that if the permittee complies with the terms and conditions imposed by the permits, including the Regional Conditions set forth by the Army Corps of Engineers (ACOE), along with the conditions set forth in this water quality certification, then activities will comply with the applicable water quality 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, including without limitation, the approval from the owner of a private water conveyance system, if one is required, to use the system in connection with the permitted activities.

1 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).

1.1 Pollutants of Concern

The primary pollutant of concern, for projects permitted under the 2020 NWPs administered by the ACOE, is sediment. In locations where heavy metals are present due to mining activities, or where high concentrations of nutrients may be associated with sediments, additional considerations may be necessary. If the project reduces riparian vegetation, then temperature (thermal loading) may also be of concern.

The procedures outlined in the Sediment Evaluation Framework for the Pacific Northwest[1] may be applied to assess and characterize sediment to determine the suitability of dredged material for unconfined aquatic placement, to determine the suitability of post dredge surfaces, and to predict effects on water quality during dredging (See Section 2.4 for more details).

As part of the Section 401 water quality certification, DEQ is requiring the applicant to comply with various conditions to protect water quality and to meet Idaho WQS, including the criteria applicable to sediment.

1.2 Receiving Water Body Level of Protection

The ACOE NWPs authorize construction activities in waters of the United States. In Idaho, jurisdictional waters of the state can potentially receive discharges either directly or indirectly from activities authorized under the NWPs. DEQ applies a water body by water body approach to determine the level of antidegradation protection a water body will receive. (IDAPA 58.01.02.052.05).

All waters in Idaho that receive discharges from activities authorized under a NWP will receive, at minimum, Tier I antidegradation protection because Idaho's Tier I antidegradation policy applies to all state waters (IDAPA 58.01.02.052.01). Water bodies that fully support their aquatic life or recreational uses are considered *high quality waters* and will receive Tier II antidegradation protection (IDAPA 58.01.02.051.02). Because of the statewide applicability, the antidegradation review will assess whether the NWP permit complies with both Tier I and Tier II antidegradation provisions (IDAPA 58.01.02.052.03).

Although Idaho does not currently have any Tier III designated outstanding resource waters (ORWs), it is possible for a water body to be designated as an ORW during the life of the NWPs.

[1] Northwest Regional Sediment Evaluation Team (RSET). 2018. Sediment Evaluation Framework for the Pacific Northwest. *Prepared by* the RSET Agencies, May 2018, 183 pp plus appendices.

Because of this potential, the antidegradation review also assesses whether the permit complies with the outstanding resource water requirements of Idaho's antidegradation policy (IDAPA 58.01.02.051.03).

To determine the support status of the receiving water body, the most recent EPA-approved Integrated Report, available on Idaho DEQ's website, is to be used: http://www.deq.idaho.gov/water-quality/surface-water/monitoring-assessment/integrated-report/. (IDAPA 58.01.02.052.05).

High quality waters are identified in Categories 1 and 2 of the Integrated Report. If a water body is in either Category 1 or 2, it is a Tier II water body.

Unassessed waters are identified in Category 3 of DEQ's Integrated Report. These waters require a case by case determination to be made by DEQ based on available information at the time of the application for permit coverage (IDAPA 58.01.02.052.05.b). For activities occurring on unassessed waters under this certification, DEQ has determined that complying with the conditions of the NWP, the regional conditions, and this certification will ensure the provisions of IDAPA 58.01.02.052 are met.

Impaired waters are identified in Categories 4 and 5 of the Integrated Report. Category 4(a) contains impaired waters for which a TMDL has been approved by EPA. Category 4(b) contains impaired waters for which controls other than a TMDL have been approved by EPA. Category 5 contains waters which have been identified as "impaired", for which a TMDL is needed. These waters are Tier I waters, for the use which is impaired. With the exception, if the aquatic life uses are impaired for any of these three pollutants—dissolved oxygen, pH, or temperature—and the biological or aquatic habitat parameters show a healthy, balanced biological community, then the water body shall receive Tier II protection, in addition to Tier I protection, for aquatic life uses (IDAPA 58.01.02.052.05.c.i).

DEQ's webpage also has a link to the state's map-based Integrated Report which presents information from the Integrated Report in a searchable, map-based format: http://www.deq.idaho.gov/assistance-resources/maps-data/.
Water bodies can be in multiple categories for different causes. If assistance is needed in using these tools, or if additional information/clarification regarding the support status of the receiving water body is desired, please feel free to contact your nearest DEQ regional office or the State Office (Table 1).

Table 1. Idaho DEQ Regional and State Office Contacts

Regional Office	*Address*	*Phone Number*	*Email*
Boise	1445 N. Orchard Rd., Boise 83706	208-373-0550	kati.carberry@deq.idaho.gov
Coeur d'Alene	2110 Ironwood Parkway, Coeur d'Alene 83814	208-769-1422	chantilly.higbee@deq.idaho.gov
Idaho Falls	900 N. Skyline, Suite B., Idaho Falls 83402	208-528-2650	troy.saffle@deq.idaho.gov
Lewiston	1118 "F" St., Lewiston 83501	208-799-4370	sujata.connell@deq.idaho.gov
Pocatello	444 Hospital Way, #300 Pocatello 83201	208-236-6160	matthew.schenk@deq.idaho.gov
Twin Falls	650 Addison Ave. W., Suite 110, Twin Falls 83301	208-736-2190	balthasar.buhidar@deq.idaho.gov
State Office	1410 N. Hilton Rd., Boise 83706	208-373-0502	jason.pappani@deq.idaho.gov

1.3 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 uses and the level of water quality necessary to protect existing uses shall be maintained and protected (IDAPA 58.01.02.051.01; 052.01 and 04). The numeric and narrative criteria in the WQS are set at levels that ensure protection of existing and designated beneficial uses.

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 (IDAPA 58.01.02.055.02). Once a TMDL is completed, discharges of causative pollutants shall be consistent with the allocations in the TMDL (IDAPA 58.01.02.055.05). Prior to the completion of a TMDL, the WQS require the application of the antidegradation policy and implementation provisions to maintain and protect beneficial uses (IDAPA 58.01.02.055.04).

The general (non-numeric) effluent limitations in the NWPs and associated Regional Conditions for the ACOE Walla Walla District address best management practices (BMPs) aimed at minimizing impacts to the aquatic environment, especially sediment and turbidity impacts including: vegetation protection and restoration, de-watering requirements, erosion and sediment controls, soil stabilization requirements, pollution prevention measures, prohibited discharges, and wildlife considerations. Although the NWPs do not contain specific (numeric) effluent limitations for sediment or turbidity, the conditions identified in the permits and in this water quality certification will ensure compliance with DEQ's water quality standards, including the narrative sediment criteria (IDAPA 58.01.02.200.08) and DEQ's turbidity criteria (IDAPA 58.01.02.250.02.e).

In order to ensure compliance with Idaho WQS, DEQ has included a condition requiring the permittee(s) to comply with Idaho's numeric turbidity criteria, developed to protect aquatic life

uses. The criterion states, "Turbidity shall not exceed background turbidity by more than 50 nephelometric turbidity units (NTU)[2] instantaneously or more than 25 NTU for more than 10 consecutive days" (IDAPA 58.01.02.250.02.e). DEQ is requiring turbidity monitoring when project activities result in a discharge to waters of the United States that causes a visible sediment plume (IDAPA 58.01.02.054.01) (See Section 2.5 for more details).

If an approved TMDL exists for a receiving water body that requires a load reduction for a pollutant of concern, then the project must be consistent with the provisions of that TMDL (IDAPA 58.01.02.055.05).
For authorized activities requiring a pre-construction notification (PCN), the Corps will have the opportunity to evaluate the NWP activities on a case by case basis to ensure that the activity will not cause more than a minimal adverse environmental effect, individually and cumulatively. The Corps has agreed to forward the verification letters to the appropriate DEQ regional office (Table 1) for all authorized activities including the NWP activities that require a PCN. This will better inform DEQ of the authorized activities that are occurring throughout the state and determine if additional conditions will need to be implemented when the ACOE reissues the NWPs.

1.3.1 DEQ's Determination

DEQ concludes that, given the nature of the activities authorized by the 2020 NWPs, such activities will comply with Idaho's Tier I requirements under IDAPA 58.01.02.051.01 and 58.01.02.052.07, provided the permitted activities are carried out in compliance with the limitations and associated requirements of the 2020 NWPs, Regional Conditions, and conditions set forth in this water quality certification.

1.4 Protection of High-Quality Waters (Tier II Protection)

Water bodies that fully support their beneficial uses are recognized as high-quality waters and will be provided Tier II protection in addition to Tier I protection (IDAPA 58.01.02.051.02; 58.01.02.052.05.a). Water quality parameters applicable to existing or designated beneficial uses must be maintained and protected under Tier II, unless a lowering of water quality is deemed necessary to accommodate important economic or social development (IDAPA 58.01.02.051.02; 58.01.02.052.08).

The ACOE does not authorize projects with more than minimal individual and cumulative impacts on the aquatic environment under a NWP (33 U.S.C.A. § 1344(e)). As required by the National Environmental Policy Act (NEPA) the Corps has analyzed the individual and cumulative effects for the NWP activities. DEQ recognizes that short term changes in water quality may occur with respect to sediment as a result of the authorized activities, but has determined that adherence to the terms and conditions imposed by the permits, including the Regional Conditions set forth by the Army Corps of Engineers (ACOE or Corps), along with the conditions set forth in this water quality certification will ensure that there are no long-term adverse changes to water quality or beneficial use support as a result of any activity authorized under this certification (IDAPA 58.01.02.052.03). As a general principle, DEQ believes degradation of water quality should be viewed in terms of permanent or long-term adverse

[2] *NTU is a unit of measure of the concentration of suspended particles in the water (turbidity). It is determined by shining a light through a sample and measuring the incident light scattered at right angles from the sample.*

changes. Short-term or temporary reductions in water quality, if reasonable measures are taken to minimize them (such as the certification conditions in Section 2), may occur without triggering a Tier II analysis (IDAPA 58.01.02.052.03; 080.02).

To ensure proposed regulated activities will not cause more than minimal individual and cumulative impacts on the aquatic environment, certain NWPs require project proponents to notify district engineers (in the form of a PCN) of their proposed activities prior to conducting regulated activities. This level of review gives the district engineer the opportunity to evaluate activities on a case by case basis to determine whether additional conditions or mitigation requirements are warranted to ensure that the proposed activity results in no more than the minimal individual and cumulative impacts on the aquatic environment.

DEQ has denied certification for NWP 16, NWP 23, and NWP 53 (see Section 3.1); and for certain activities associated with NWP 3, NWP 12, NWP 13, NWP 14, NWP 21, NWP 29, NWP 39, NWP 40, NWP 42, NWP 43, NWP 44, NWP 50, NWP 51, NWP 52, NWP C, NWP D, and NWP E (see Section 3.2). Projects seeking coverage under these NWPs will need to request individual certification from DEQ. DEQ will consider any additional conditions or denial of certification if necessary to ensure no lowering of water quality occurs for any of these projects proposed on Tier II water.

Additionally, if an authorized project causes a visible sediment plume then turbidity monitoring is required (see Section 2.5 for more details).

1.4.1 DEQ's Determination

DEQ concludes that the activities authorized by the 2020 NWPs and this certification will comply with Idaho's Tier II requirements under IDAPA 58.01.02.051.02 and 58.01.02.052.08 providing permitted activities are carried out in compliance with the limitations and associated requirements of the 2020 NWPs, Regional Conditions, and conditions of this water quality certification.

1.5 Protection of Outstanding Resource Waters (Tier III Protection)

Idaho's antidegradation policy requires that the quality of outstanding resource waters (ORWs) be maintained and protected from the impacts of point and nonpoint source activities (IDAPA 58.01.02.051.03). No water bodies in Idaho have been designated as ORWs to date. Because it is possible waters may become designated during the term of the 2020 NWPs, DEQ has evaluated whether the NWPs comply with the ORW antidegradation provision.

DEQ has denied certification for any activities on any Outstanding Resource Water (ORW) (see Section 3) and is requiring that any activities proposed on an ORW apply for individual certification (see Section 2.3).

1.5.1 DEQ's Determination

DEQ concludes that the activities authorized by the 2020 NWPs and this certification will comply with Idaho's Tier III requirements under IDAPA 58.01.02.051.03 providing permitted activities are carried out in compliance with the limitations and associated requirements of the 2020 NWPs, Regional Conditions, and conditions of this water quality certification.

2 Conditions Necessary to Ensure Compliance with Water Quality Standards or Other Appropriate Water Quality Requirements of State Law

For all activities covered under this certification, the following conditions are necessary to ensure that permitted projects comply with water quality requirements.

2.1 Design, Implementation, and Maintenance of Appropriate Best Management Practices

Best Management Practices (BMPs) must be designed, implemented, and maintained by the permittee to fully protect and maintain the beneficial uses and ambient water quality of waters of the state and to prevent exceedances of WQS (IDAPA 58.01.02.350.01.a).

BMPs must be selected and properly installed. Proper installation and operation of BMPs are required to ensure the provisions of IDAPA 58.01.02.052 are met. In order to ensure that BMPs are operating properly and to demonstrate that degradation has not occurred, the permittee must monitor and evaluate BMP effectiveness daily during project activities to assure that water quality standards are being met.

Approved BMPs for specific activities (mining, forestry, stream channel alteration, etc.) are codified in IDAPA 58.01.02.350. Additionally, DEQ provides a catalog of storm water best management practices, available at: http://www.deq.idaho.gov/media/60184297/stormwater-bmp-catalog.pdf. This catalog presents a variety of BMPs that can be used to control erosion and sediment during and after construction. Other sources of information are also available and may be used for selecting project appropriate BMPs.

This condition is necessary meet the following water quality requirements:

Control of erosion, sediment, and turbidity to maintain beneficial use support and compliance with the following water quality standards:

- General Surface Water Criteria for Sediment (IDAPA 58.01.02.200.08)
- Numeric Turbidity Criteria for Aquatic Life (IDAPA 58.01.02.250.02.e)
- Numeric turbidity criteria for protection of domestic water supply (IDAPA 58.01.02.252.01.b)
- Point source wastewater treatment requirements (IDAPA 58.01.02.401.02)

2.2 TMDL Compliance

If there is an approved or established TMDL, then the permittee must comply with the established loads in the TMDL. Approved TMDLs can be found on DEQ's website (https://www.deq.idaho.gov/water-quality/surface-water/tmdls/table-of-sbas-tmdls/) or by contacting the appropriate regional office contact (Table 1).

This condition is necessary to meet the following water quality requirements:

Ensure projects are consistent with waste load and load allocations established in approved TMDLs (IDAPA 58.01.02.055.04 and .05).

2.3 Outstanding Resource Waters

If waters become designated as ORWs during the term of the NWPs, a permittee proposing a project on an ORW must contact the appropriate DEQ regional office and apply for individual certification.

This condition is necessary to meet the following water quality requirements:

Ensure there is no lowering of water quality in any ORW as required by the Idaho Antidegradation Policy (IDAPA 58.01.02.051.03).

2.4 Fill Material

Material subject to suspension, including suspended dredge material, shall be free of easily suspended fine material. The fill material to be placed in waters of the United States shall be clean material only. If dredged material is proposed to be used as fill material and there is a possibility the material may be contaminated, then the permittee must apply the procedures in the *Sediment Evaluation Framework for the Pacific Northwest* (RSET, 2018) to assess and characterize sediment to determine the suitability of dredged material for unconfined-aquatic placement; determine the suitability of post dredge surfaces; and to predict effects on water quality during dredging.

This condition is necessary to meet the following water quality requirements:

Prevent suspension of fine sediment and turbidity in order to provide beneficial use support and compliance with the following water quality standards:

- General Surface Water Criteria for Sediment (IDAPA 58.01.02.200.08)
- Numeric Turbidity Criteria for Aquatic Life (IDAPA 58.01.02.250.02.e)
- Numeric turbidity criteria for protection of domestic water supply (IDAPA 58.01.02.252.01.b)
- Point source wastewater treatment requirements (IDAPA 58.01.02.401.02)

Prevent suspension of hazardous, toxic, or deleterious materials or other pollutants that may be associated with fill material in order to ensure beneficial use support and compliance with the following water quality standards:

- General Surface Water Criteria for hazardous materials (IDAPA 58.01.02.200.01), toxic substances (IDAPA 58.01.02.200.02), deleterious materials (IDAPA 58.01.02.200.03), excess nutrients (IDAPA 58.01.02.200.06), or oxygen demanding materials (IDAPA 58.01.02.200.09)
- Numeric toxics criteria for aquatic life and human health (IDAPA 58.01.02.210)

2.5 Turbidity

If no visible sediment plume is present, it is reasonable to assume that there is no potential violation of the water quality criteria for turbidity (IDAPA 58.01.02.250.02.e). Therefore, turbidity monitoring is only required when activities cause a visible sediment plume.

A properly and regularly calibrated turbidimeter is required for measurements analyzed in the field, but grab samples may be collected and taken to a laboratory for analysis. When monitoring is required a sample must be taken at an undisturbed area immediately up-current from in-water disturbance or discharge to establish background turbidity levels. Background turbidity, latitude/longitude, date, and time must be recorded prior to monitoring down-current. Then a sample must be collected immediately down-current from the in-water disturbance or point of discharge and within any visible sediment plume. The turbidity, latitude/longitude, date, and time must be recorded for each sample. The downstream sample must be taken immediately following the upstream sample in order to obtain meaningful and representative results.

Results from the down-current sampling point must be compared to the up-current or background level to determine whether project activities are causing an exceedance of state WQS. If the downstream turbidity is 50 NTUs or more greater than the upstream turbidity, then the project is causing an exceedance of the WQS (IDAPA 58.01.02.250.02.e).
Any exceedance of the turbidity standard must be reported to the appropriate DEQ regional office (Table 1) within 24 hours.

The following steps should be followed to ensure compliance with the turbidity standard:

1. If a visible plume is observed, collect turbidity measurements at 1) an upstream location; and, 2) from within the plume, and compare the results to Idaho's instantaneous numeric turbidity criterion (50 NTU over background).
2. If turbidity in the plume is less than 50 NTU instantaneously over the background turbidity continue monitoring as long as the plume is visible. If turbidity exceeds background turbidity by more than 50 NTU instantaneously then stop all earth disturbing construction activities immediately and proceed to Step 3. If turbidity exceeds background turbidity by more than 25 NTU, or if a visible plume is observed for more than 10 consecutive days, then stop all earth disturbing construction activities and proceed to Step 3.
3. Notify the appropriate DEQ regional office within 24 hours of any turbidity criteria exceedance. Take action to address the cause of the exceedance. That may include inspecting the condition of project BMPs. If the BMPs are functioning to their fullest capability, then the permittee must modify project activities and/or BMPs to correct the exceedance.
4. Earth disturbing activities may continue once turbidity readings return to within 50 NTU over background instantaneously; or, if turbidity has exceeded 25 NTU over background for more than ten consecutive days, once turbidity readings have no longer exceeded 25 NTU over background for at least 24 consecutive hours.

Copies of daily logs for turbidity monitoring must be available to DEQ upon request. The report must describe all exceedances and subsequent actions taken, including the effectiveness of the action.

This condition is necessary to meet the following water quality requirements:

Ensure that activities do not impair beneficial uses, and ensure and document compliance with the following water quality standards:

- General Surface Water Criteria for Sediment (IDAPA 58.01.02.200.08)
- Numeric Turbidity Criteria for Aquatic Life (IDAPA 58.01.02.250.02.e)
- Numeric turbidity criteria for protection of domestic water supply (IDAPA 58.01.02.252.01.b)

2.6 Mixing Zones

No mixing zones are authorized through this certification. If a mixing zone, or alternatively, a point of compliance, is desired, the permittee must apply for an individual certification and must contact the appropriate DEQ regional office (Table 1) to request authorization for a mixing zone.

This condition is necessary to meet the following water quality requirements:

Ensure any mixing zone is properly authorized in accordance with the Idaho Mixing Zone Policy (IDAPA 58.01.02.060).

2.7 Culverts

To prevent road surface and culvert bedding material from entering a stream, culvert crossings must include best management practices to retain road base and culvert bedding material. For perennial waters, the permittee should consider the Idaho Stream Channel Alterations rules (IDAPA 37.03.07). Another source of BMPs for culvert installation can be found in the Idaho Forest Practices Act (IDAPA 20.20.01). Examples of best management practices include, but are not limited to: parapets, wing walls, inlet and outlet rock armoring, compaction, suitable bedding material, anti-seep barriers such as bentonite clay, or other acceptable roadway retention systems.

This condition is necessary to meet the following water quality requirements:

Control of erosion, sediment, and turbidity to provide beneficial use support and compliance with the following water quality standards:

- General Surface Water Criteria for Sediment (IDAPA 58.01.02.200.08)
- Numeric Turbidity Criteria for Aquatic Life (IDAPA 58.01.02.250.02.e)
- Numeric turbidity criteria for protection of domestic water supply (IDAPA 58.01.02.252.01.b)

2.8 Wood Preservatives

DEQ's *Guidance for the Use of Wood Preservatives and Preserved Wood Products In or Around Aquatic Environments* must be considered when using treated wood materials in the aquatic environment. Within this guidance document DEQ references the *Best Management Practices*

for the Use of Treated Wood in Aquatic and Wetland Environments[3]. This document provides recommended guidelines for the production and installation of treated wood products destined for use in sensitive environments.

This condition is necessary to meet the following water quality requirements:

Ensure that toxic chemicals are not introduced into waters and to ensure compliance with the following water quality standards:

- General Surface Water Criteria for hazardous materials (IDAPA 58.01.02.200.01), toxic substances (IDAPA 58.01.02.200.02), and deleterious materials (IDAPA 58.01.02.200.03)
- Numeric toxics criteria for aquatic life and human health (IDAPA 58.01.02.210)

2.9 Reporting of Discharges Containing Hazardous Materials or Deleterious Materials

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 appropriate DEQ regional office in Table 2 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

Table 2. Idaho DEQ regional contacts for reporting discharge or spill of hazardous or deleterious materials.

Regional Office	*Toll Free Phone Number*	*Phone Number*
Boise	888-800-3480	208-373-0550
Coeur d'Alene	877-370-0017	208-769-1422
Idaho Falls	800-232-4635	208-528-2650
Lewiston	877-541-3304	208-799-4370
Pocatello	888-655-6160	208-236-6160
Twin Falls	800-270-1663	208-736-2190

[3] Western Wood Preservers Institute, Wood Preservation Canada, Southern Pressure Treaters' Association, and Southern Forest Products Association. 2011. "Best Management Practices: For the Use of Treated Wood in Aquatic and Wetland Environments" Vancouver, WA: Western Wood Preservers Institute.

This condition is necessary to meet the following water quality requirements:

Ensure compliance with the following water quality standards:

- Hazardous Material Spills (IDAPA 58.01.02.850)
- Petroleum release reporting, investigation, and confirmation (IDAPA 58.01.02.851)
- Petroleum release response and corrective action (IDAPA 58.01.02.852)

2.10 Other Conditions

This certification is conditioned upon the requirement that if there are material modifications of the NWPs or the permitted activities—including without limitation, significant changes from the draft NWPs to final NWPs, or significant changes to the draft Regional Conditions, then DEQ must re-evaluate the certification to determine compliance with Idaho WQS and to provide additional certification pursuant to Section 401.

This condition is necessary to ensure that DEQ can evaluate any material modification to ensure it meets water quality requirements and complies with the Idaho antidegradation policy (IDAPA 58.01.02.051) and its implementation (IDAPA 58.01.02.052), general surface water quality criteria (200), numeric toxics criteria for aquatic life and human health (IDAPA 58.01.02.210), numeric criteria for aquatic life (IDAPA 58.01.02.250), recreation (IDAPA 58.01.02.251), and water supply uses (IDAPA 58.01.02.252).

3 Projects for Which Certification Is Denied

DEQ cannot certify that the following activities will comply with water quality requirements, including State WQS and other appropriate requirements of state law, and is therefore denying certification for the activities listed below.

For activities for which certification has been denied, the applicant will be required to request an individual certification before the activity can be conducted. Individual certification requests will provide DEQ with the opportunity to review project details and determine if additional conditions are necessary to ensure that water quality requirements will be met.

Upon review and evaluation of individual certification requests, DEQ may 1) certify without condition, 2) provide individual certification with conditions necessary to ensure water quality requirements will be met, or 3) deny certification for projects that will not meet water quality requirements.

3.1 NWPs denied

DEQ denies certification for all activities proposed to occur on waters designated as ORWs during the term of the permit. This denial is necessary to ensure compliance with the water quality requirements of Idaho's antidegradation policy (IDAPA 58.01.02.051.03) and implementation procedures (IDAPA 58.01.02.052.09.g).

In addition, the following NWPs are denied certification for all Idaho waters. Projects seeking coverage under these NWPs must request individual certification from DEQ.

NWP 16 - Return Water from Upland Contained Disposal Areas

Basis for denial:

Return water from upland disposal areas has the potential to contribute turbidity, sediment, and other toxic and non-toxic pollutants to receiving waters.

To ensure that discharge from upland contained disposal areas meets water quality requirements, DEQ must evaluate the quality of the return water and evaluate the potential pollutants associated with return water on a case-by-case basis to determine compliance with general surface water quality criteria (IDAPA 58.01.02.200); numeric toxics criteria for aquatic life and human health (IDAPA 58.01.02.210); and use specific criteria for aquatic life (IDAPA 58.01.02.250), recreation (IDAPA 58.01.02.251), and water supply uses (IDAPA 58.01.02.252).

NWP 23 - Approved Categorical Exclusions

Basis for denial:

DEQ is unable to determine that meeting the requirements for categorical exclusion under the National Environmental Policy Act will meet state water quality requirements.

DEQ will evaluate categorically excluded activities on a case-by-case basis to determine compliance with general surface water quality criteria (IDAPA 58.01.02.200); numeric toxics criteria for aquatic life and human health (IDAPA 58.01.02.210); and use specific criteria for aquatic life (IDAPA 58.01.02.250), recreation (IDAPA 58.01.02.251), and water supply uses (IDAPA 58.01.02.252).

NWP 53 – Removal of Low-Head Dams

Basis for denial:

Material released from the removal of low head dams has the potential to contribute turbidity, sediment, and other toxic and non-toxic pollutants to receiving waters.

In order to ensure that release of materials from the removal of low head dams meets water quality requirements, DEQ must evaluate the potential pollutants associated with this release on a case-by-case basis to determine compliance with general surface water quality criteria (IDAPA 58.01.02.200); numeric toxics criteria for aquatic life and human health (IDAPA 58.01.02.210); and use specific criteria for aquatic life (IDAPA 58.01.02.250), recreation (IDAPA 58.01.02.251), and water supply uses (IDAPA 58.01.02.252).

3.2 NWPs partially denied

The following activities have the potential to disturb significant areas and could disturb a significant fraction of entire Assessment Units, causing permanent and significant impairment of designated and existing beneficial uses. The conditions associated with the NWP, regional conditions, and the conditions associated with this certification are not sufficient to provide DEQ with assurance that projects of this magnitude would not result in impairment of existing or

designated beneficial uses in all waters, and potentially increase degradation in high quality (Tier II) waters.

In order to meet the requirements of Idaho's antidegradation implementation procedures (IDAPA 58.01.02.052), ensure that beneficial uses are not impaired, and ensure compliance with general surface water quality criteria for sediment (IDAPA 58.01.02.200.08), DEQ must evaluate these projects on a case-by-case basis and provide individual certification where applicable.

3.2.1 NWPs 3, 13, and 14

The 2020 NWPs 3, 13, and 14 require preconstruction notification (PCN) for certain activities when it is necessary for the district engineer to review activities to ensure only minimal adverse environmental effects.

While the additional district engineer review is intended to ensure that activities will cause only minimal adverse environmental effects, it is not reasonable to expect that the district engineer review will consider the requirements of Idaho's antidegradation implementation procedures (IDAPA 58.01.02.052) when making their determination. Consequently, DEQ cannot certify that activities requiring PCN under these NWPs would not cause degradation of water quality, and therefore cannot certify that these activities would meet Idaho's antidegradation implementation procedures (IDAPA 58.01.02.052).

Therefore, DEQ is denying certification for the following activities that require PCN under the proposed 2020 NWPs:

NWP 3 – Maintenance

Activities Denied Certification

- Activities authorized by paragraph (b) of NWP 3

NWP 13 – Bank Stabilization

Activities Denied Certification:

- activities involving discharge into special aquatic sites;
- activities in excess of 500 linear feet;
- activities that involve discharge of greater than one cubic yard per running foot measured along the length of the treated bank below the plane of the ordinary high water mark

NWP 14 – Linear Transportation Projects

Activities Denied Certification:

- activities resulting in the loss of waters of the United States in excess of 1/10 acre;
- discharge in a special aquatic site, including wetlands

3.2.2 NWPs 12, C, and D

The 2017 NWP 12 included activities proposed to be permitted under the 2020 NWPs C and D.

The 2017 NWP 12 required PCN for activities that, among other thresholds, involved mechanized clearing in forested wetlands, exceeded 500 linear feet, or that resulted in loss of greater than 1/10 acre of waters of the United States. The 2020 NWP proposes removal of these thresholds for PCN, and does not require additional review from the ACOE district engineer to ensure only minimal adverse environmental effects.

Without the requirement for PCN and additional review from the district engineer, DEQ cannot certify that these activities will not result in degradation. Therefore, DEQ is denying certification for the following activities:

NWP 12 – Oil or Natural Gas Pipeline Activities

Activities Denied Certification:

- activities that involve mechanized clearing of a wooded wetland;
- oil or natural gas pipelines in waters of the United States that exceed 500 linear feet or that run adjacent to a water body for greater than 500 linear feet;
- activities where discharge will result in loss of greater than 1/10-acre, as determined by ACOE, of waters of the United States

NWP C – Electric Utility Line and Telecommunications Activities

Activities Denied Certification:

- activities that involve mechanized clearing of a wooded wetland;
- electric utility line and telecommunications activities in waters of the United States that exceed 500 linear feet;
- activities where discharge will result in loss of greater than 1/10-acre, as determined by ACOE, of waters of the United States

NWP D – Utility Line Activities for Water and Other Substances

Activities Denied Certification:

- activities that involve mechanized clearing of a wooded wetland;
- utility line activities in waters of the United States that exceed 500 linear feet;
- activities where discharge will result in loss of greater than 1/10-acre, as determined by ACOE, of waters of the United States

3.2.3 NWPs 21, 29, 39, 40, 42, 43, 44, 50, 51, 52, and E

The 2017 NWPs for the following activities had a 300 linear foot limit for losses of stream bed. The 2020 NWP proposes removal of the 300 linear foot limit for losses of stream bed and instead rely solely on the ½ acre limit.

The median bankfull width measured from 48 wadeable streams monitored in 2010 as part of DEQ's Beneficial Use reconnaissance Program (BURP) was 19.7 feet. A loss of ½ acre at this stream width would correspond to 1,105 linear feet of loss, or the equivalent of 0.2 miles of stream. DEQ cannot certify that losses of this magnitude of stream bed, or that losses of stream

bed based solely on the ½ acre limit, would not result in permanent degradation. Therefore, DEQ is denying certification for the following activities that exceed the 300 linear foot limit previously imposed by the 2017 NWP:

NWP 21 – Surface Coal Mining Activities

Activities Denied Certification:

- activities resulting in loss in excess of 300 linear feet of streambed
- activities resulting in loss in excess of ½ acre of jurisdictional wetlands

NWP 29 – Residential Developments

Activities Denied Certification:

- activities resulting in loss in excess of 300 linear feet of streambed
- activities resulting in loss in excess of ½ acre of jurisdictional wetlands

NWP 39 – Commercial and Institutional Developments

Activities Denied Certification:

- activities resulting in loss in excess of 300 linear feet of streambed
- activities resulting in loss in excess of ½ acre of jurisdictional wetlands

NWP 40 – Agricultural Activities

Activities Denied Certification:

- activities resulting in loss in excess of 300 linear feet of streambed
- activities resulting in loss in excess of ½ acre of jurisdictional wetlands

NWP 42 – Recreational Facilities

Activities Denied Certification:

- activities resulting in loss in excess of 300 linear feet of streambed
- activities resulting in loss in excess of ½ acre of jurisdictional wetlands

NWP 43 – Stormwater Management Facilities

Activities Denied Certification:

- activities resulting in loss in excess of 300 linear feet of streambed
- activities resulting in loss in excess of ½ acre of jurisdictional wetlands

NWP 44 – Mining Activities

Activities Denied Certification:

- activities resulting in loss in excess of 300 linear feet of streambed
- activities resulting in loss in excess of ½ acre of jurisdictional wetlands

NWP 50 – Underground Coal Mining Activities

Activities Denied Certification:

- activities resulting in loss in excess of 300 linear feet of streambed
- activities resulting in loss in excess of ½ acre of jurisdictional wetlands

NWP 51 – Land Based Renewable Energy Generation Facilities

Activities Denied Certification:

- activities resulting in loss in excess of 300 linear feet of streambed
- activities resulting in loss in excess of ½ acre of jurisdictional wetlands

NWP 52 – Water-Based Renewable Energy Generation Pilot Projects

Activities Denied Certification:

- activities resulting in loss in excess of 300 linear feet of streambed
- activities resulting in loss in excess of ½ acre of jurisdictional wetlands

NWP E – Water Reclamation and Reuse Facilities

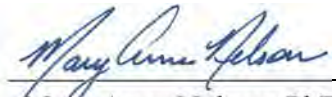
Activities Denied Certification:

- activities resulting in loss in excess of 300 linear feet of streambed
- activities resulting in loss in excess of ½ acre of jurisdictional wetlands

4 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 Jason Pappani, State Office IDEQ, at (208) 373-0515 or via email at jason.pappani@deq.idaho.gov.



Mary Anne Nelson, PhD
Surface and Wastewater Division
Administrator

STATE OF IDAHO
DEPARTMENT OF
ENVIRONMENTAL QUALITY

1410 N Hilton Street, Boise, ID 83706
(208) 373-0502

Brad Little, Governor
Jess Byrne, Director

MEMORANDUM

TO: James Joyner, Chief, Upper Snake and Idaho Panhandle Branch, U.S. Army Corps of Engineers

FROM: Mary Anne Nelson, Surface and Wastewater Division Administrator of the Department of Environmental Quality

DATE: 01/10/23

SUBJECT: 2020 Final § 401 Water Quality Certification Contact and Hyperlink Updates

The Department of Environmental Quality (DEQ) is submitting an update for agency contacts and hyperlinks to be included as an attachment to the § 401 Water Quality Certification dated December 4, 2020, upon authorization of a federal permit or license.

Table 1. DEQ state and regional office contacts.

Regional Office	Address	Phone Number	Email
Boise	1445 N. Orchard St., Boise, ID 83706	(208) 373-0490	*chase.cusack@deq.idaho.gov*
Coeur d'Alene	2110 Ironwood Parkway, Coeur d'Alene, ID 83814	(208) 666-4605	*chantilly.higbee@deq.idaho.gov*
Idaho Falls	900 N. Skyline, Suite B., Idaho Falls, ID 83402	(208) 528-2679	*alex.bell@deq.idaho.gov*
Lewiston	1118 "F" St., Lewiston, ID 83501	(208) 799-4874	*sujata.connell@deq.idaho.gov*
Pocatello	444 Hospital Way, #300 Pocatello, ID 83201	(208) 239-5007	*matthew.schenk@deq.idaho.gov*
Twin Falls	650 Addison Ave. W., Suite 110, Twin Falls, ID 83301	(208) 737-3877	*sean.woodhead@deq.idaho.gov*
State Office	1410 N. Hilton St., Boise, ID 83706	(208) 373-0570	*tambra.phares@deq.idaho.gov*

Table 2. Updated hyperlinks.

Section	Hyperlink
1.2	*Integrated Report*
1.2	*Final 2022 Integrated Report Interactive Mapper*
2.1	*Catalog of Storm Water Best Management Practices*
2.2	*Approved TMDLs*
2.8	*Guidance for the Use of Wood Preservatives and Preserved Wood Products In or Around Aquatic Environments*
2.8	*Best Management Practices for the Use of Treated Wood in Aquatic and Wetland Environments*

Please direct questions or comments about the actions taken in the 2020 Final § 401 Water Quality Certification to Tambra Phares, State Office DEQ, (208) 373-0187, or email at *tambra.phares@deq.idaho.gov*.

APPROVAL: 01/10/2023

Mary Anne Nelson, PhD
Department of Environmental Quality
Surface and Wastewater Division Administrator

Date

6. The applicant shall apply for a joint Idaho Department of Water Resources (IDWR)/ Army Corps of Engineers (USACE) Emergency Permit Application to Alter a Stream Channel within 15 days of this date.

7. The proposed project, Rusack Emergency Streambank Stabilization, is approved on this date, May 3, 2023 with the following conditions:

a. The scope of work shall be limited to the proposal described in the application to the city dated May 3, 2023.
b. The approval is subject to any additional conditions as required by the Idaho Department of Water Resources and the U.S. Army Corps of Engineers; where an outside agency's conditions or standards are more stringent than the city's, the outside agency's conditions or standards apply.
c. The applicant shall submit a complete Waterways Design Review/Stream Alteration application to the City of Ketchum by November 3, 2023; the application shall address all applicable floodplain development, waterways, and streambank alteration criteria.
d. If a City of Ketchum waterways design review/stream alteration permit subject to Chapter 17.88 and all other applicable state and federal agency permits are granted, the applicant shall then complete restoration of the affected property to city and state standards by either March 31 of the year following the issuance of the emergency permit or by another date specified by approval authority.
e. Copies of the approved emergency stream bank stabilization shall be posted on site throughout the duration of the stabilization work.
f. The applicant shall not mow, prune or cut vegetation in the riparian area without a permit from the City to ensure that the riparian area is allowed to naturalize. City Staff reserve the right to inspect annually the 25 foot riparian zone for preservation of riparian vegetation.
g. No use of restricted use chemicals or soil sterilants will be allowed within one hundred feet (100') of the mean high water mark on any property within the city limits at any time.
h. No use of pesticides, herbicides, or fertilizers will be allowed within twenty five feet (25') of the mean high water mark on any property within the city limits unless approved by the city arborist. All applications of herbicides and/or pesticides within one hundred feet (100') of the mean high water mark, but not within twenty five feet (25') of the mean high water mark, must be done by a licensed applicator and applied at the minimum application rates. Application times for herbicides and/or pesticides will be limited to two (2) times a year; once in the spring and once in the fall unless otherwise approved by the city arborist. The application of dormant oil sprays and insecticidal soap within the riparian zone may be used throughout the growing season as needed.
i. It shall be unlawful to dump, deposit or otherwise cause any trash, landscape debris or other material to be placed in any stream, channel, ditch, pond or basin that regularly or periodically carries or stores water.

Decision: Approved, subject to conditions above.

DATED this 3rd day of May, 2023.

Adam Crutcher
Associate Planner

Permit Holder's Acknowledgement:

I have read the terms and conditions of this permit approval and agree to follow all the conditions of approval. I understand if scope of work and conditions are not adhered to, the City will pursue enforcement procedures established in KMC 17.156.

Print Name:_____

Sign_____

Date:_____

ATTACHMENT A.

Site Photos

Exhibit E – 2024 Permits

DEPARTMENT OF THE ARMY
U.S. ARMY CORPS OF ENGINEERS
IDAHO FALLS REGULATORY OFFICE
900 NORTH SKYLINE DRIVE, SUITE A
IDAHO FALLS, IDAHO 83402-1700

June 24, 2024

WALLA WALLA DISTRICT
REGULATORY DIVISION

SUBJECT: NWW-2023-258, Marsupial Properties Bank Stabilization (2024 Action)

Geoff Rusack
Marsupial Properties
1825 Ballard Canyon
Solvang, CA 93463

Dear Mr. Rusack:

We have determined that your proposed project is authorized in accordance with Department of the Army (DA) **Nationwide Permit (NWP) No. 13: Bank Stabilization**. This project is located at the Big Wood River, near 411 Northwood Way, Ketchum, Blaine County, Idaho (Latitude/Longitude: 43.69226, -114.37262), in Township 4N, Range 17E, Section 12. Please refer to File Number NWW-2023-258 in all future correspondence with our office regarding this project.

Project activities include the installation of two rock/wood barbs, adding riffle features, and adding vegetated riprap for bank stabilization of the side channel. A total of 265 cubic yards of rock and channel substrate material will be discharged below the ordinary high water mark along 285 linear feet of the river. The project will also include the dewatering of the side channel with a temporary coffer dam. This will be during low flow periods of late summer or fall to allow for work to be done in dry conditions. A tracked excavator will be used to place materials. The purpose of the project is to improve emergency bank stabilization work that was done at this location in May of 2023. All work shall be done in accordance with the drawings in the enclosed file, titled: “Marsupial Properties Bank Stabilization Permit Set 4-4-2024_11x17.”

DA permit authorization is necessary because your project may involve the discharge of fill material into waters of the U.S. This authorization is outlined in Section 404 of the Clean Water Act (33 U.S.C. 1344).

You must comply with all general and regional conditions for this verification letter to remain valid and to avoid possible enforcement actions. The general and regional permit conditions for *NWP No. 13: Bank Stabilization* are attached and also available online[1].

You must also comply with the conditions detailed in the attached Section 401 Water Quality Certification (WQC) issued by the Idaho Department of Environmental Quality (IDEQ) on December 4, 2020. If you have any questions regarding the conditions set forth in the WQC, please contact IDEQ directly at 208-736-2190, Twin Falls Regional Office.

Nationwide Permit General Condition 30 (Compliance Certification) requires that every permittee who has received NWP verification must submit a signed certification regarding the completed work and any required mitigation. This Compliance Certification form is enclosed for your convenience and must be completed and returned to us within 30 days of your project's completion.

This letter of authorization does not convey any property rights, or any exclusive privileges and does not authorize any injury to property or excuse you from compliance with other Federal, State, or local statutes, ordinances, regulations, or requirements which may affect this work.

This verification is valid until **March 14, 2026**, unless the NWP is modified, suspended, or revoked. If your project, as permitted under this NWP verification, is modified in any way you must contact our office prior to commencing any work activities. If you will not complete construction of your project by March 14, 2026, please contact us at least 60-days prior to this date. A new application and verification may be required.

We actively use feedback to improve our delivery and provide you with the best possible service. If you would like to provide feedback, please take our online survey[2]. If you have questions or if you would like a paper copy of the survey, please contact the Walla Walla District Regulatory. For more information about the Walla Walla District Regulatory program, you can visit us online[3].

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1 http://www.nww.usace.army.mil/Business-With-Us/Regulatory-Division/Nationwide-Permits/
2 https://regulatory.ops.usace.army.mil/customer-service-survey/
3 http://www.nww.usace.army.mil/Business-With-Us/Regulatory-Division/

If you have any questions or need additional information about this permit authorization, please contact Cabel Patterson by phone at 208-541-2991, by mail at the address in the letterhead, or email at cabel.c.patterson@usace.army.mil. A copy of this letter is being sent to Nicholas Kraus, PE (QRS Consulting, LLC), IDWR, and IDEQ.

Sincerely,

James M. Joyner
Chief, Upper Snake/Idaho Panhandle Branch,
Regulatory Division

Encls:
Transfer of Nationwide Permit Form
Compliance Certification Form
Joint Application for Permit
Project Drawings
NWP13 Permit Conditions
Section 401 Water Quality Certification (WQC)

TRANSFER OF NATIONWIDE PERMIT

When the structures or work authorized by this Nationwide Permit, NWW-2023-258, Marsupial Properties Bank Stabilization (2024 Action), are still in existence at the time the property is transferred, the terms and conditions of this Nationwide Permit, including any special conditions, will continue to be binding on the new owner(s) of the property. To validate the transfer of this Nationwide Permit, the associated liabilities, and compliance with the terms and conditions, the transferee must sign and date below.

Name of New Owner:

Street Address:

Mailing Address:

City, State, Zip:

Phone Number:

_____ _____

Signature of TRANSFEREE *DATE*

COMPLIANCE CERTIFICATION

US Army Corps of Engineers
Walla Walla District

Permit Number: NWW-2023-258, Marsupial Properties Bank Stabilization (2024 Action)

Name of Permittee: Geoff Rusack

Date of Issuance: June 24, 2024

Upon completion of the activity authorized by this permit and any mitigation required by the permit, please sign this certification and return it to the following address:

U.S. Army Corps of Engineers
Walla Walla District
Idaho Falls Regulatory Office
900 North Skyline Rd., Suite A
Idaho Falls, Idaho 83402-1718

Please note that your permitted activity is subject to a compliance inspection by a U.S. Army Corps of Engineers representative. If you fail to comply with all terms and conditions of this permit, the permit is subject to suspension, modification, or revocation and you are subject to an enforcement action by this office.

I hereby certify that the work authorized by the above-referenced permit has been completed in accordance with the terms and conditions of the said permit. The required mitigation was also completed in accordance with the permit conditions.

_____ _____

Signature of PERMITEE *DATE*

NATIONWIDE PERMIT 13

Bank Stabilization:

Bank stabilization activities necessary for erosion control or prevention, such as vegetative stabilization, bioengineering, sills, rip rap, revetment, gabion baskets, stream barbs, and bulkheads, or combinations of bank stabilization techniques, provided the activity meets all of the following criteria:

(a) No material is placed in excess of the minimum needed for erosion protection;

(b) The activity is no more than 500 feet in length along the bank, unless the district engineer waives this criterion by making a written determination concluding that the discharge of dredged or fill material will result in no more than minimal adverse environmental effects (an exception is for bulkheads – the district engineer cannot issue a waiver for a bulkhead that is greater than 1,000 feet in length along the bank);

(c) The activity will not exceed an average of one cubic yard per running foot, as measured along the length of the treated bank, below the plane of the ordinary high water mark or the high tide line, unless the district engineer waives this criterion by making a written determination concluding that the discharge of dredged or fill material will result in no more than minimal adverse environmental effects;

(d) The activity does not involve discharges of dredged or fill material into special aquatic sites, unless the district engineer waives this criterion by making a written determination concluding that the discharge of dredged or fill material will result in no more than minimal adverse environmental effects;

(e) No material is of a type, or is placed in any location, or in any manner, that will impair surface water flow into or out of any waters of the United States;

(f) No material is placed in a manner that will be eroded by normal or expected high flows (properly anchored native trees and treetops may be used in low energy areas);
(g) Native plants appropriate for current site conditions, including salinity, must be used for bioengineering or vegetative bank stabilization;

(h) The activity is not a stream channelization activity; and

(i) The activity must be properly maintained, which may require repairing it after severe storms or erosion events. This NWP authorizes those maintenance and repair activities if they require authorization.

This NWP also authorizes temporary structures, fills, and work, including the use of temporary mats, necessary to construct the bank stabilization activity. Appropriate measures must be taken to maintain normal downstream flows and minimize flooding to the maximum extent practicable, when temporary structures, work, and discharges of

dredged or fill material, including cofferdams, are necessary for construction activities, access fills or dewatering of construction sites. Temporary fills must consist of materials, and be placed in a manner, that will not be eroded by expected high flows. After construction, temporary fills must be removed in their entirety and the affected areas returned to pre-construction elevations. The areas affected by temporary fills must be revegetated, as appropriate.

Notification: The permittee must submit a pre-construction notification to the district engineer prior to commencing the activity if the bank stabilization activity: (1) involves discharges of dredged or fill material into special aquatic sites; or (2) is in excess of 500 feet in length; or (3) will involve the discharge of dredged or fill material of greater than an average of one cubic yard per running foot as measured along the length of the treated bank, below the plane of the ordinary high-water mark or the high tide line. (See general condition 32.) (Authorities: Sections 10 and 404)

Note: In coastal waters and the Great Lakes, living shorelines may be an appropriate option for bank stabilization and may be authorized by NWP 54.

WATER QUALITY CERTIFICATION, NWP 13:

Agency responsible for administration of water quality, based on project location is listed below. If DENIED, then an Individual Water Quality Certification or Waiver of Certification is required, prior to the commencement of any work activities and/or issuance of a DA verification, authorization and/or permit.

State of Idaho: **PARTIALLY DENIED:** activities requiring a Pre-Construction Notification (PCN) for NWP 13 are **not certified**.

Coeur d'Alene Tribal Lands: **DENIED**

Shoshone-Bannock Tribal Lands: **DENIED**

U.S. Environmental Protection Agency for all other Tribal Lands: **PARTIALLY DENIED:** activities are denied when:

- The entire scope of the project is greater than 300 linear feet; or
- The project includes hard armoring approaches; or
- The project is in marine waters and has not completed the assessments set forth in the Marine Shoreline Design Guidelines (for projects proposed on tribal lands or lands of exclusive federal jurisdiction in Washington State) or
- The project involves permanent fill in wetlands that are waters of the U.S.

2021/2022 Nationwide Permits
Regional Conditions
Walla Walla District Regulatory Division (State of Idaho)

January 13, 2021

The following Nationwide Permit (NWP) regional conditions are required in the state of Idaho and apply to all 2021/2022 NWPs[1]. Regional conditions are established by individual Corps Districts to ensure projects result in no more than minimal adverse impacts to the aquatic environment and to address local resources concerns. This document also includes regional additions to the NWP General Conditions, notification procedures pertaining to certain NWP's, and regional additions to the definitions.

REGIONAL CONDITIONS

A. Watersheds Requiring Pre-Construction Notification, Specific to Anadromous Fish

This Regional Condition applies to all 2021/2022 NWPs.

- Pre-construction notification (PCN) will be required for the above listed nationwide permits in the geographic area as shown on Figure 1: *Watersheds Requiring Pre-Construction Notification*, dated January 6, 2021.

B. Vegetation Preservation and Replanting

- To avoid impacts to aquatic habitat and to reduce sedimentation and erosion, permittee shall avoid and minimize the removal of vegetation in waters of the U.S. to the maximum extent practicable. Areas subject to temporary vegetation removal in waters of the U.S. during construction shall be replanted with appropriate native[2] species by the end of the first growing season, unless conditioned otherwise. Permittee shall avoid introducing or spreading noxious or invasive plants[3].

- Replanted vegetation that does not survive the first growing season shall be replanted before the end of the next growing season. Re-plantings shall continue to occur until desired vegetation densities are achieved. Re-vegetation densities should be based on reference conditions.

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[1] For the list of 2021/2022 Nationwide Permits please see: https://www.nww.usace.army.mil/Business-With-Us/Regulatory-Division/Nationwide-Permits/

[2] Idaho Department of Transportation, Native Plants for Idaho Roadside Restoration and Revegetation Programs: https://itd.idaho.gov/wp-content/uploads/2016/06/RP171Roadside_Revegetation.pdf

[3] U.S. Department of Agriculture, Natural Resource Conservation Service Plant Database of introduced, invasive, and noxious plants for Idaho: https://plants.usda.gov/java/noxious?rptType=State&statefips=16.

C. De-watering & Re-watering (as applicable)

- Cofferdams shall be constructed of non-erosive material such as concrete jersey barriers, bulk bags, water bladders, sheet pile, and other similar non-erosive devices. Cofferdams may not be constructed by using mechanized equipment to push streambed material through flowing water.

- Diversion channels constructed to bypass flow around the construction site shall be lined with plastic, large rock, pipe or otherwise protected from erosion prior to releasing flows into or through the diversion channel.

- Water removed from within the coffered area shall be pumped to a sediment basin or otherwise treated to remove suspended sediments prior to its return to the waterway.

- To prevent unwanted passage of state or federally-protected fish, if present, from the coffered area, Water pipe intakes shall be screened with openings measuring < 3/32 inch to prevent entrainment of fish trapped in the coffered area.

- Should fish be present within the coffered areas contact your local Idaho Department of Fish and Game (IDFG) office prior to performing fish removal or salvage. Fish shall be collected by electrofishing, seining or dip net, or otherwise removed and returned to the waterway upstream of the project area. If electrofishing is used, the National Marine Fisheries Service (NMFS) guidelines for electrofishing should be followed[4], unless conditioned otherwise.

- Stream channels that have been dewatered during project construction shall be re-watered slowly to avoid lateral and vertical erosion of the de-watered channel, prevent damage to recently reclaimed work areas and/or damage to permitted work.

- Temporary stockpiles in waters of the United States shall be removed in their entirety so as not to form a berm or levee parallel to the stream that could confine flows or restrict overbank flow to the floodplain.

D. In-Water Structures and Complexes

- PCN notification in accordance with General Condition 32 is required for all non-federal applicants with activities involving gabion baskets placed below the ordinary high water mark.
- Stream meanders, riffle and pool complexes, pool stream structures, rock/log barbs, rock J-hooks, drop structures, sills, engineered log jams or similar structures/features when used shall be site specifically designed by an appropriate professional with experience in hydrology or fluvial geomorphology.

[4] Guidelines for Electrofishing Waters Containing Salmonids Listed Under the Endangered Species Act (June 2000) http://www.westcoast fisheries.noaa.gov/publications/reference_documents/esa_refs/section4d/electro2000.pdf

E. Temporary Sidecasting

- Materials from exploratory trenching and installation of utility lines may be temporarily side cast into a de-watered coffered area for up to 30 days but not within flowing waters. Material from exploratory trenching and installation of utility lines in wetlands may be temporarily side cast for up to 30 days.

F. Suitability of Sediments for Open Water Disposal and us as Fill

- Sampling for determination of suitability of sediments for open water disposal or for use as fill, must comply with the Sediment Evaluation Framework for the Pacific Northwest (SEF)[5].

G. Avoidance and Minimization

- In addition to information required under General Condition 32(b), the applicant shall include information about previous discharges of fill material into waters of the United States within the project area. This is only for non-federal applicants where a PCN is required.

- Discharges of dredged or fill material into waters of the U.S., including wetlands, to meet set back requirements are not authorized under NWP.

H. Erosion Control

- Erosion control blanket or fabric used in or adjacent to waters of the U.S. shall be comprised of biodegradable material, to ensure decomposition and reduced risk to fish, wildlife and public safety, unless conditioned otherwise. If the applicant proposes to use materials other than as indicated above they must demonstrate how the use of such materials will not cause harm to fish, wildlife and public safety.

I. Reporting Requirement for Federal Permittees

- Federal Agencies with projects that require compensatory mitigation for loss of waters of the U.S. and who propose to purchase credits from an approved wetland and/or stream mitigation bank must provide proof of purchase within 30 days of when the credits were purchased. Purchase of credits from an approved mitigation bank must be IAW the Mitigation Banking Instrument of Record.

[5] Northwest Regional Sediment Evaluation Team (RSET) 2016. Sediment Evaluation Framework for the Pacific Northwest. Prepared by the RSET Agencies, July 2016, 160 pp plus appendices. http://nwd.usace.army.mil/Missions/Civil-Works/Navigation/RSET/SEF

REGIONAL ADDITIONS TO THE GENERAL CONDITIONS

General Condition 4. Migratory Bird Breeding Areas. Regional Addition: For additional information please contact the US Fish and Wildlife Service at the following field office locations: State Office (Boise) at (208) 387-5243; Northern Idaho Field Office (Spokane) at (509) 891-6839; or the Eastern Idaho Field Office (Chubbuck) at (208) 237-6975. https://www.fws.gov/idaho/promo.cfm?id= 177175802

General Condition 6. Suitable Material. Regional Addition: Erosion control blanket or fabric used in or adjacent to waters of the U.S. shall be comprised of biodegradable material, to ensure decomposition and reduced risk to fish, wildlife and public safety, unless conditioned otherwise. If the applicant proposes to use materials other than as indicated above they must demonstrate how the use of such materials will not cause harm to fish, wildlife and public safety.

General Condition 9. Management of Water Flows. Regional Addition: To obtain information on State of Idaho definition of high water refer to Idaho Department of Water Resources (IDAPA 37.03.07. Rule 62.03.04.a). For culverts or bridges located in a community qualifying for the national flood insurance program, the minimum size culvert shall accommodate the 100-year flood design flow frequency (IDAPA 37.03.07. Rule 62.03.04.c).

General Condition 12. Soil Erosion and Sediment Controls. Regional Addition: For additional information refer to the Idaho Department of Environmental Quality Catalog of Stormwater Best Management Practices for Idaho Cities and Counties, available online at: https://www.deq.idaho.gov/public-information/laws-guidance-and-orders/guidance/.

General Condition 18. Endangered Species. Regional Addition: For additional information on ESA listed species in north Idaho please contact the US Fish and Wildlife Service (USFWS) Northern Idaho Field Office (Spokane) at (509) 893-8009, for all other counties in Idaho contact the USFWS State Office (Boise) at (208) 378-5388.

General Condition 20. Historic Properties. Regional Addition: Property is generally considered “historic” if it is at least 50 years old, and is not limited to buildings. For additional information on the potential for cultural resources in proximity to the project site, contact the Idaho State Historic Preservation Office at (208) 334-3847 located in Boise, Idaho.

NOTIFICATION PROCEDURES BY THE CORPS FOR CERTAIN NATIONWIDE PERMITS

Waivers: For nationwide permits with a waiver provision, District coordination with Idaho Department of Environmental Quality (IDEQ) and Environmental Protection Agency (tribal lands) will be conducted prior to the District Engineer making a waiver determination to ensure the proposed activity is in compliance with Section 401 Water Quality Standards.

Select Waters and Wetlands: The Corps will coordinate with the Idaho Department of Fish and Game (IDFG) for activities in the following waters and wetlands that require notification and are authorized by NWP:

- Waters: Waters: Anadromous waters as shown on Figure 1: *Watersheds Requiring Pre-Construction Notification*, dated January 6, 2021; Henry's Fork of the Snake River and its tributaries; South Fork Snake River and its tributaries; Big Lost River and its tributaries upstream of the US 93 crossing; Beaver, Camas, and Medicine Lodge Creeks; Snake River; Blackfoot River above Blackfoot Reservoir; Portneuf River; Bear River; Boise River including South Fork, North Fork and Middle Fork; Payette River including South Fork, North Fork and Middle Fork; Coeur d'Alene River, including the North Fork; St. Joe River; Priest River; Kootenai River; Big Wood River; and Silver Creek and its tributaries.

- Wetlands identified in Idaho Department of Fish and Game, Wetland Conservation Strategy as Class I, Class II and Reference Habitat Sites[6].

- Wetlands identified in the Idaho Wetland Conservation Prioritization Plan-2012[7].

NWP 27-Aquatic Habitat Restoration, Establishment, and Enhancement Activities

Prior to verification, the Corps will coordinate the project with the Idaho Department of Fish and Game for activities in perennial, fish bearing streams.

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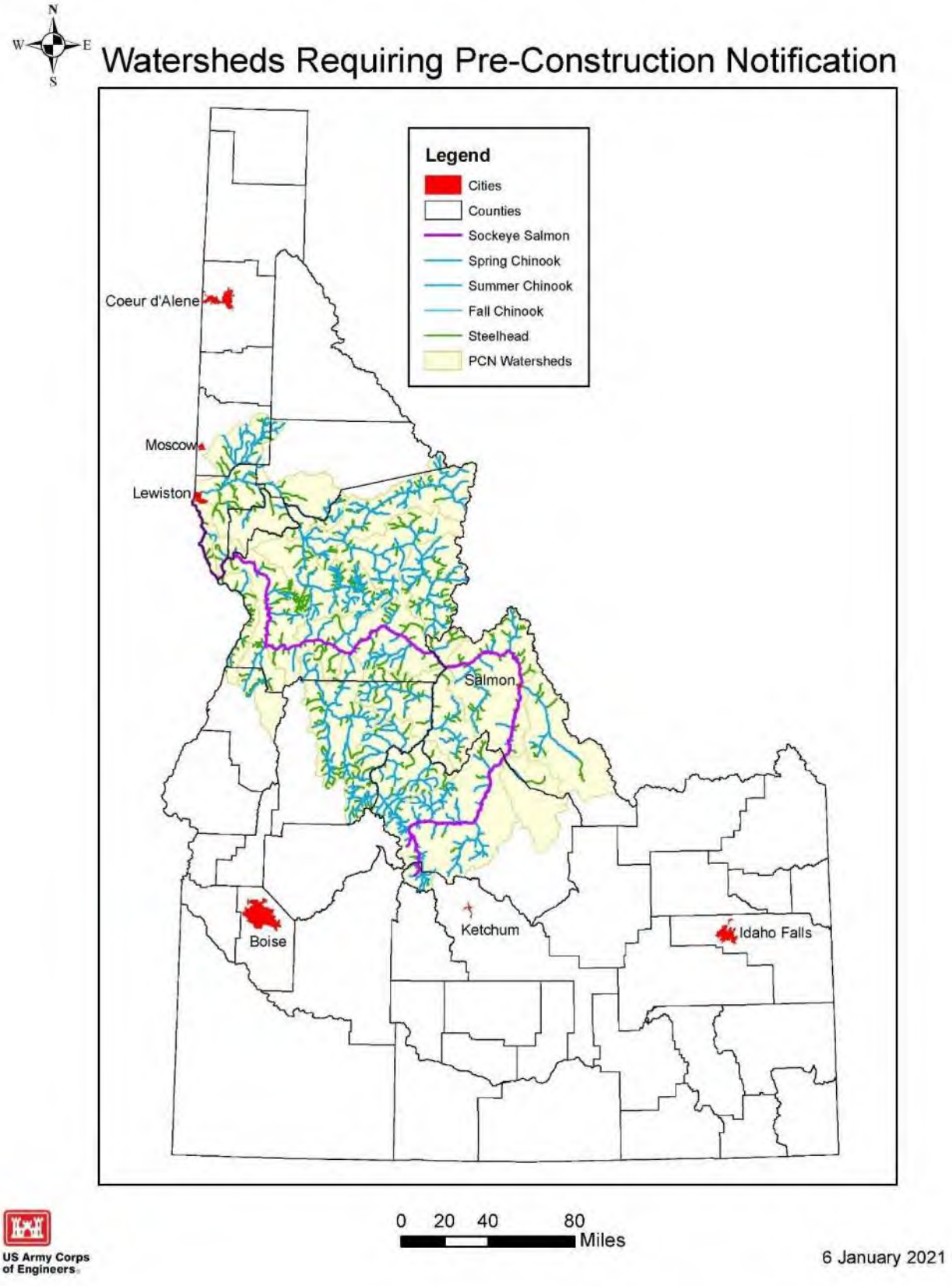
[6] Idaho Department of Fish and Game (IDFG) Wetland Conservation Strategies have been developed for the Henrys Fork Basin, Northern Idaho, Big Wood River, Southeast Idaho, East-Central Idaho and Spokane River Basin, Middle and Western Snake River and tributaries, and the Upper Snake River–Portneuf Drainage, Weiser River Basin, and West Central Mountain Valleys and adjacent wetlands. Closed basins of Beaver-Camas Creeks, Medicine Lodge Creek, Palouse River and lower Clearwater River sub-basins, Middle Fork and South Fork Clearwater Basins and Camas Prairie in northern Idaho. Refer to the internet site at: http://fishandgame.idaho.gov/content/page/wetlands-publications-idaho-natural-heritage-program#reports

[7] Murphy, C., J. Miller and A. Schmidt. 2012. https://parksandrecreation.idaho.gov/sites/default/files/uploads/documents/SCORTP/Update/Apdx%20.%20Wetlands%Priority%Plan%20(Part %20I)%Compressed1.pdf

Figure 1


N
W
E
S
Watersheds Requiring Pre-Construction Notification
Legend
Cities
Counties
Sockeye Salmon
Spring Chinook
Summer Chinook
Fall Chinook
Steelhead
PCN Watersheds
Coeur d'Alene
Moscow
Lewiston
Salmon
Ketchum
Boise
Idaho Falls
0 20 40 80
Miles
US Army Corps of Engineers
6 January 2021

2021 Nationwide Permit General Conditions

Note: To qualify for NWP authorization, the prospective permittee must comply with the following general conditions, as applicable, in addition to any regional or case-specific conditions imposed by the division engineer or district engineer. Prospective permittees should contact the appropriate Corps district office to determine if regional conditions have been imposed on an NWP. Prospective permittees should also contact the appropriate Corps district office to determine the status of Clean Water Act Section 401 water quality certification and/or Coastal Zone Management Act consistency for an NWP. Every person who may wish to obtain permit authorization under one or more NWPs, or who is currently relying on an existing or prior permit authorization under one or more NWPs, has been and is on notice that all of the provisions of 33 CFR 330.1 through 330.6 apply to every NWP authorization. Note especially 33 CFR 330.5 relating to the modification, suspension, or revocation of any NWP authorization.

1. Navigation

(a) No activity may cause more than a minimal adverse effect on navigation.

(b) Any safety lights and signals prescribed by the U.S. Coast Guard, through regulations or otherwise, must be installed and maintained at the permittee's expense on authorized facilities in navigable waters of the United States.

(c) The permittee understands and agrees that, if future operations by the United States require the removal, relocation, or other alteration, of the structure or work herein authorized, or if, in the opinion of the Secretary of the Army or his or her authorized representative, said structure or work shall cause unreasonable obstruction to the free navigation of the navigable waters, the permittee will be required, upon due notice from the Corps of Engineers, to remove, relocate, or alter the structural work or obstructions caused thereby, without expense to the United States. No claim shall be made against the United States on account of any such removal or alteration.

2. Aquatic Life Movements

No activity may substantially disrupt the necessary life cycle movements of those species of aquatic life indigenous to the waterbody, including those species that normally migrate through the area, unless the activity's primary purpose is to impound water. All permanent and temporary crossings of waterbodies shall be suitably culverted, bridged, or otherwise designed and constructed to maintain low flows to sustain the movement of those aquatic species. If a bottomless culvert cannot be used, then the crossing should be designed and constructed to minimize adverse effects to aquatic life movements.

3. Spawning Areas

Activities in spawning areas during spawning seasons must be avoided to the maximum extent practicable. Activities that result in the physical destruction (e.g., through excavation, fill, or downstream smothering by substantial turbidity) of an important spawning area are not authorized.

4. Migratory Bird Breeding Areas

Activities in waters of the United States that serve as breeding areas for migratory birds must be avoided to the maximum extent practicable.

5. Shellfish Beds

No activity may occur in areas of concentrated shellfish populations, unless the activity is directly related to a shellfish harvesting activity authorized by NWPs 4 and 48, or is a shellfish seeding or habitat restoration activity authorized by NWP 27.

6. Suitable Material

No activity may use unsuitable material (e.g., trash, debris, car bodies, asphalt, etc.). Material used for construction or discharged must be free from toxic pollutants in toxic amounts (see section 307 of the Clean Water Act).

7. Water Supply Intakes

No activity may occur in the proximity of a public water supply intake, except where the activity is for the repair or improvement of public water supply intake structures or adjacent bank stabilization.

8. Adverse Effects From Impoundments

If the activity creates an impoundment of water, adverse effects to the aquatic system due to accelerating the passage of water, and/or restricting its flow must be minimized to the maximum extent practicable.

9. Management of Water Flows
To the maximum extent practicable, the pre-construction course, condition, capacity, and location of open waters must be maintained for each activity, including stream channelization, storm water management activities, and temporary and permanent road crossings, except as provided below. The activity must be constructed to withstand expected high flows. The activity must not restrict or impede the passage of normal or high flows, unless the primary purpose of the activity is to impound water or manage high flows. The activity may alter the pre-construction course, condition, capacity, and location of open waters if it benefits the aquatic environment (e.g., stream restoration or relocation activities).

10. Fills Within 100-Year Floodplains
The activity must comply with applicable FEMA-approved state or local floodplain management requirements.

11. Equipment
Heavy equipment working in wetlands or mudflats must be placed on mats, or other measures must be taken to minimize soil disturbance.

12. Soil Erosion and Sediment Controls
Appropriate soil erosion and sediment controls must be used and maintained in effective operating condition during construction, and all exposed soil and other fills, as well as any work below the ordinary high water mark or high tide line, must be permanently stabilized at the earliest practicable date. Permittees are encouraged to perform work within waters of the United States during periods of low-flow or no-flow, or during low tides.

13. Removal of Temporary Structures and Fills
Temporary structures must be removed, to the maximum extent practicable, after their use has been discontinued. Temporary fills must be removed in their entirety and the affected areas returned to pre-construction elevations. The affected areas must be revegetated, as appropriate.

14. Proper Maintenance
Any authorized structure or fill shall be properly maintained, including maintenance to ensure public safety and compliance with applicable NWP general conditions, as well as any activity-specific conditions added by the district engineer to an NWP authorization.

15. Single and Complete Project
The activity must be a single and complete project. The same NWP cannot be used more than once for the same single and complete project.

16. Wild and Scenic Rivers
(a) No NWP activity may occur in a component of the National Wild and Scenic River System, or in a river officially designated by Congress as a "study river" for possible inclusion in the system while the river is in an official study status, unless the appropriate Federal agency with direct management responsibility for such river, has determined in writing that the proposed activity will not adversely affect the Wild and Scenic River designation or study status.

(b) If a proposed NWP activity will occur in a component of the National Wild and Scenic River System, or in a river officially designated by Congress as a "study river" for possible inclusion in the system while the river is in an official study status, the permittee must submit a pre-construction notification (see general condition 32). The district engineer will coordinate the PCN with the Federal agency

with direct management responsibility for that river. Permittees shall not begin the NWP activity until notified by the district engineer that the Federal agency with direct management responsibility for that river has determined in writing that the proposed NWP activity will not adversely affect the Wild and Scenic River designation or study status.

(c) Information on Wild and Scenic Rivers may be obtained from the appropriate Federal land management agency responsible for the designated Wild and Scenic River or study river (e.g., National Park Service, U.S. Forest Service, Bureau of Land Management, U.S. Fish and Wildlife Service). Information on these rivers is also available at: http://www.rivers.gov/.

17. Tribal Rights

No activity or its operation may impair reserved tribal rights, including, but not limited to, reserved water rights and treaty fishing and hunting rights.

18. Endangered Species

(a) No activity is authorized under any NWP which is likely to directly or indirectly jeopardize the continued existence of a threatened or endangered species or a species proposed for such designation, as identified under the Federal Endangered Species Act (ESA), or which will directly or indirectly destroy or adversely modify designated critical habitat or critical habitat proposed for such designation. No activity is authorized under any NWP which "may affect" a listed species or critical habitat, unless ESA section 7 consultation addressing the consequences of the proposed activity on listed species or critical habitat has been completed. See 50 CFR 402.02 for the definition of "effects of the action" for the purposes of ESA section 7 consultation, as well as 50 CFR 402.17, which provides further explanation under ESA section 7 regarding "activities that are reasonably certain to occur" and "consequences caused by the proposed action."

(b) Federal agencies should follow their own procedures for complying with the requirements of the ESA (see 33 CFR 330.4(f)(1)). If pre-construction notification is required for the proposed activity, the Federal permittee must provide the district engineer with the appropriate documentation to demonstrate compliance with those requirements. The district engineer will verify that the appropriate documentation has been submitted. If the appropriate documentation has not been submitted, additional ESA section 7 consultation may be necessary for the activity and the respective federal agency would be responsible for fulfilling its obligation under section 7 of the ESA.

(c) Non-federal permittees must submit a pre-construction notification to the district engineer if any listed species (or species proposed for listing) or designated critical habitat (or critical habitat proposed such designation) might be affected or is in the vicinity of the activity, or if the activity is located in designated critical habitat or critical habitat proposed for such designation, and shall not begin work on the activity until notified by the district engineer that the requirements of the ESA have been satisfied and that the activity is authorized. For activities that might affect Federally-listed endangered or threatened species (or species proposed for listing) or designated critical habitat (or critical habitat proposed for such designation), the pre-construction notification must include the name(s) of the endangered or threatened species (or species proposed for listing) that might be affected by the proposed activity or that utilize the designated critical habitat (or critical habitat proposed for such designation) that might be

affected by the proposed activity. The district engineer will determine whether the proposed activity "may affect" or will have "no effect" to listed species and designated critical habitat and will notify the non-Federal applicant of the Corps' determination within 45 days of receipt of a complete pre-construction notification. For activities where the non-Federal applicant has identified listed species (or species proposed for listing) or designated critical habitat (or critical habitat proposed for such designation) that might be affected or is in the vicinity of the activity, and has so notified the Corps, the applicant shall not begin work until the Corps has provided notification that the proposed activity will have "no effect" on listed species (or species proposed for listing or designated critical habitat (or critical habitat proposed for such designation), or until ESA section 7 consultation or conference has been completed. If the non-Federal applicant has not heard back from the Corps within 45 days, the applicant must still wait for notification from the Corps.

(d) As a result of formal or informal consultation or conference with the FWS or NMFS the district engineer may add species-specific permit conditions to the NWPs.

(e) Authorization of an activity by an NWP does not authorize the "take" of a threatened or endangered species as defined under the ESA. In the absence of separate authorization (e.g., an ESA Section 10 Permit, a Biological Opinion with "incidental take" provisions, etc.) from the FWS or the NMFS, the Endangered Species Act prohibits any person subject to the jurisdiction of the United States to take a listed species, where "take" means to harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect, or to attempt to engage in any such conduct. The word "harm" in the definition of "take'' means an act which actually kills or injures wildlife. Such an act may include significant habitat modification or degradation where it actually kills or injures wildlife by significantly impairing essential behavioral patterns, including breeding, feeding or sheltering.

(f) If the non-federal permittee has a valid ESA section 10(a)(1)(B) incidental take permit with an approved Habitat Conservation Plan for a project or a group of projects that includes the proposed NWP activity, the non-federal applicant should provide a copy of that ESA section 10(a)(1)(B) permit with the PCN required by paragraph (c) of this general condition. The district engineer will coordinate with the agency that issued the ESA section 10(a)(1)(B) permit to determine whether the proposed NWP activity and the associated incidental take were considered in the internal ESA section 7 consultation conducted for the ESA section 10(a)(1)(B) permit. If that coordination results in concurrence from the agency that the proposed NWP activity and the associated incidental take were considered in the internal ESA section 7 consultation for the ESA section 10(a)(1)(B) permit, the district engineer does not need to conduct a separate ESA section 7 consultation for the proposed NWP activity. The district engineer will notify the non-federal applicant within 45 days of receipt of a complete pre-construction notification whether the ESA section 10(a)(1)(B) permit covers the proposed NWP activity or whether additional ESA section 7 consultation is required.

(g) Information on the location of threatened and endangered species and their critical habitat can be obtained directly from the offices of the FWS and NMFS or their world wide web pages at

http://www.fws.gov/ or http://www.fws.gov/ipac and http://www.nmfs.noaa.gov/pr/species/esa/ respectively.

19. Migratory Birds and Bald and Golden Eagles

The permittee is responsible for ensuring that an action authorized by an NWP complies with the Migratory Bird Treaty Act and the Bald and Golden Eagle Protection Act. The permittee is responsible for contacting the appropriate local office of the U.S. Fish and Wildlife Service to determine what measures, if any, are necessary or appropriate to reduce adverse effects to migratory birds or eagles, including whether "incidental take" permits are necessary and available under the Migratory Bird Treaty Act or Bald and Golden Eagle Protection Act for a particular activity.

20. Historic Properties

(a) No activity is authorized under any NWP which may have the potential to cause effects to properties listed, or eligible for listing, in the National Register of Historic Places until the requirements of Section 106 of the National Historic Preservation Act (NHPA) have been satisfied.

(b) Federal permittees should follow their own procedures for complying with the requirements of section 106 of the National Historic Preservation Act (see 33 CFR 330.4(g)(1)). If pre-construction notification is required for the proposed NWP activity, the Federal permittee must provide the district engineer with the appropriate documentation to demonstrate compliance with those requirements. The district engineer will verify that the appropriate documentation has been submitted. If the appropriate documentation is not submitted, then additional consultation under section 106 may be necessary. The respective federal agency is responsible for fulfilling its obligation to comply with section 106.

(c) Non-federal permittees must submit a pre-construction notification to the district engineer if the NWP activity might have the potential to cause effects to any historic properties listed on, determined to be eligible for listing on, or potentially eligible for listing on the National Register of Historic Places, including previously unidentified properties. For such activities, the pre-construction notification must state which historic properties might have the potential to be affected by the proposed NWP activity or include a vicinity map indicating the location of the historic properties or the potential for the presence of historic properties. Assistance regarding information on the location of, or potential for, the presence of historic properties can be sought from the State Historic Preservation Officer, Tribal Historic Preservation Officer, or designated tribal representative, as appropriate, and the National Register of Historic Places (see 33 CFR 330.4(g)). When reviewing pre-construction notifications, district engineers will comply with the current procedures for addressing the requirements of section 106 of the National Historic Preservation Act. The district engineer shall make a reasonable and good faith effort to carry out appropriate identification efforts commensurate with potential impacts, which may include background research, consultation, oral history interviews, sample field investigation, and/or field survey. Based on the information submitted in the PCN and these identification efforts, the district engineer shall determine whether the proposed NWP activity has the potential to cause effects on the historic properties. Section 106 consultation is not required when the district engineer determines that the activity does not have the potential to cause effects on historic properties (see 36 CFR 800.3(a)).

Section 106 consultation is required when the district engineer determines that the activity has the potential to cause effects on historic properties. The district engineer will conduct consultation with consulting parties identified under 36 CFR 800.2(c) when he or she makes any of the following effect determinations for the purposes of section 106 of the NHPA: no historic properties affected, no adverse effect, or adverse effect.

(d) Where the non-Federal applicant has identified historic properties on which the proposed NWP activity might have the potential to cause effects and has so notified the Corps, the non-Federal applicant shall not begin the activity until notified by the district engineer either that the activity has no potential to cause effects to historic properties or that NHPA section 106 consultation has been completed. For non-federal permittees, the district engineer will notify the prospective permittee within 45 days of receipt of a complete pre-construction notification whether NHPA section 106 consultation is required. If NHPA section 106 consultation is required, the district engineer will notify the non-Federal applicant that he or she cannot begin the activity until section 106 consultation is completed. If the non-Federal applicant has not heard back from the Corps within 45 days, the applicant must still wait for notification from the Corps.

(e) Prospective permittees should be aware that section 110k of the NHPA (54 U.S.C. 306113) prevents the Corps from granting a permit or other assistance to an applicant who, with intent to avoid the requirements of section 106 of the NHPA, has intentionally significantly adversely affected a historic property to which the permit would relate, or having legal power to prevent it, allowed such significant adverse effect to occur, unless the Corps, after consultation with the Advisory Council on Historic Preservation (ACHP), determines that circumstances justify granting such assistance despite the adverse effect created or permitted by the applicant. If circumstances justify granting the assistance, the Corps is required to notify the ACHP and provide documentation specifying the circumstances, the degree of damage to the integrity of any historic properties affected, and proposed mitigation. This documentation must include any views obtained from the applicant, SHPO/THPO, appropriate Indian tribes if the undertaking occurs on or affects historic properties on tribal lands or affects properties of interest to those tribes, and other parties known to have a legitimate interest in the impacts to the permitted activity on historic properties.

21. Discovery of Previously Unknown Remains and Artifacts

Permittees that discover any previously unknown historic, cultural or archeological remains and artifacts while accomplishing the activity authorized by an NWP, they must immediately notify the district engineer of what they have found, and to the maximum extent practicable, avoid construction activities that may affect the remains and artifacts until the required coordination has been completed. The district engineer will initiate the Federal, Tribal, and state coordination required to determine if the items or remains warrant a recovery effort or if the site is eligible for listing in the National Register of Historic Places.

22. Designated Critical Resource Waters

Critical resource waters include, NOAA-managed marine sanctuaries and marine monuments, and National Estuarine Research Reserves. The district engineer may designate, after notice and opportunity for public comment,

additional waters officially designated by a state as having particular environmental or ecological significance, such as outstanding national resource waters or state natural heritage sites. The district engineer may also designate additional critical resource waters after notice and opportunity for public comment.

(a) Discharges of dredged or fill material into waters of the United States are not authorized by NWPs 7, 12, 14, 16, 17, 21, 29, 31, 35, 39, 40, 42, 43, 44, 49, 50, 51, 52, 57 and 58 for any activity within, or directly affecting, critical resource waters, including wetlands adjacent to such waters.

(b) For NWPs 3, 8, 10, 13, 15, 18, 19, 22, 23, 25, 27, 28, 30, 33, 34, 36, 37, 38, and 54, notification is required in accordance with general condition 32, for any activity proposed by permittees in the designated critical resource waters including wetlands adjacent to those waters. The district engineer may authorize activities under these NWPs only after she or he determines that the impacts to the critical resource waters will be no more than minimal.

23. <u>Mitigation</u>

The district engineer will consider the following factors when determining appropriate and practicable mitigation necessary to ensure that the individual and cumulative adverse environmental effects are no more than minimal:

(a) The activity must be designed and constructed to avoid and minimize adverse effects, both temporary and permanent, to waters of the United States to the maximum extent practicable at the project site (i.e., on site).

(b) Mitigation in all its forms (avoiding, minimizing, rectifying, reducing, or compensating for resource losses) will be required to the extent necessary to ensure that the individual and cumulative adverse environmental effects are no more than minimal.

(c) Compensatory mitigation at a minimum one-for-one ratio will be required for all wetland losses that exceed 1/10-acre and require pre-construction notification, unless the district engineer determines in writing that either some other form of mitigation would be more environmentally appropriate or the adverse environmental effects of the proposed activity are no more than minimal, and provides an activity-specific waiver of this requirement. For wetland losses of 1/10-acre or less that require pre-construction notification, the district engineer may determine on a case-by-case basis that compensatory mitigation is required to ensure that the activity results in only minimal adverse environmental effects.

(d) Compensatory mitigation at a minimum one-for-one ratio will be required for all losses of stream bed that exceed 3/100-acre and require pre-construction notification, unless the district engineer determines in writing that either some other form of mitigation would be more environmentally appropriate or the adverse environmental effects of the proposed activity are no more than minimal, and provides an activity-specific waiver of this requirement. This compensatory mitigation requirement may be satisfied through the restoration or enhancement of riparian areas next to streams in accordance with paragraph (e) of this general condition. For losses of stream bed of 3/100-acre or less that require pre-construction notification, the district engineer may determine on a case-by-case basis that compensatory mitigation is required to ensure that the activity results in only minimal adverse environmental effects. Compensatory mitigation for losses of

streams should be provided, if practicable, through stream rehabilitation, enhancement, or preservation, since streams are difficult-to-replace resources (see 33 CFR 332.3(e)(3)).

(e) Compensatory mitigation plans for NWP activities in or near streams or other open waters will normally include a requirement for the restoration or enhancement, maintenance, and legal protection (e.g., conservation easements) of riparian areas next to open waters. In some cases, the restoration or maintenance/protection of riparian areas may be the only compensatory mitigation required. If restoring riparian areas involves planting vegetation, only native species should be planted. The width of the required riparian area will address documented water quality or aquatic habitat loss concerns. Normally, the riparian area will be 25 to 50 feet wide on each side of the stream, but the district engineer may require slightly wider riparian areas to address documented water quality or habitat loss concerns. If it is not possible to restore or maintain/protect a riparian area on both sides of a stream, or if the waterbody is a lake or coastal waters, then restoring or maintaining/protecting a riparian area along a single bank or shoreline may be sufficient. Where both wetlands and open waters exist on the project site, the district engineer will determine the appropriate compensatory mitigation (e.g., riparian areas and/or wetlands compensation) based on what is best for the aquatic environment on a watershed basis. In cases where riparian areas are determined to be the most appropriate form of minimization or compensatory mitigation, the district engineer may waive or reduce the requirement to provide wetland compensatory mitigation for wetland losses.

(f) Compensatory mitigation projects provided to offset losses of aquatic resources must comply with the applicable provisions of 33 CFR part 332.

(1) The prospective permittee is responsible for proposing an appropriate compensatory mitigation option if compensatory mitigation is necessary to ensure that the activity results in no more than minimal adverse environmental effects. For the NWPs, the preferred mechanism for providing compensatory mitigation is mitigation bank credits or in-lieu fee program credits (see 33 CFR 332.3(b)(2) and (3)). However, if an appropriate number and type of mitigation bank or in-lieu credits are not available at the time the PCN is submitted to the district engineer, the district engineer may approve the use of permittee-responsible mitigation.

(2) The amount of compensatory mitigation required by the district engineer must be sufficient to ensure that the authorized activity results in no more than minimal individual and cumulative adverse environmental effects (see 33 CFR 330.1(e)(3)). (See also 33 CFR 332.3(f).)

(3) Since the likelihood of success is greater and the impacts to potentially valuable uplands are reduced, aquatic resource restoration should be the first compensatory mitigation option considered for permittee-responsible mitigation.

(4) If permittee-responsible mitigation is the proposed option, the prospective permittee is responsible for submitting a mitigation plan. A conceptual or detailed mitigation plan may be used by the district engineer to make the decision on the NWP verification request, but a final mitigation plan that addresses the applicable requirements of 33 CFR 332.4(c)(2) through (14)

must be approved by the district engineer before the permittee begins work in waters of the United States, unless the district engineer determines that prior approval of the final mitigation plan is not practicable or not necessary to ensure timely completion of the required compensatory mitigation (see 33 CFR 332.3(k)(3)). If permittee-responsible mitigation is the proposed option, and the proposed compensatory mitigation site is located on land in which another federal agency holds an easement, the district engineer will coordinate with that federal agency to determine if proposed compensatory mitigation project is compatible with the terms of the easement.

(5) If mitigation bank or in-lieu fee program credits are the proposed option, the mitigation plan needs to address only the baseline conditions at the impact site and the number of credits to be provided (see 33 CFR 332.4(c)(1)(ii)).

(6) Compensatory mitigation requirements (e.g., resource type and amount to be provided as compensatory mitigation, site protection, ecological performance standards, monitoring requirements) may be addressed through conditions added to the NWP authorization, instead of components of a compensatory mitigation plan (see 33 CFR 332.4(c)(1)(ii)).

(g) Compensatory mitigation will not be used to increase the acreage losses allowed by the acreage limits of the NWPs. For example, if an NWP has an acreage limit of 1/2-acre, it cannot be used to authorize any NWP activity resulting in the loss of greater than 1/2-acre of waters of the United States, even if compensatory mitigation is provided that replaces or restores some of the lost waters. However, compensatory mitigation can and should be used, as necessary, to ensure that an NWP activity already meeting the established acreage limits also satisfies the no more than minimal impact requirement for the NWPs.

(h) Permittees may propose the use of mitigation banks, in-lieu fee programs, or permittee-responsible mitigation. When developing a compensatory mitigation proposal, the permittee must consider appropriate and practicable options consistent with the framework at 33 CFR 332.3(b). For activities resulting in the loss of marine or estuarine resources, permittee-responsible mitigation may be environmentally preferable if there are no mitigation banks or in-lieu fee programs in the area that have marine or estuarine credits available for sale or transfer to the permittee. For permittee-responsible mitigation, the special conditions of the NWP verification must clearly indicate the party or parties responsible for the implementation and performance of the compensatory mitigation project, and, if required, its long-term management.

(i) Where certain functions and services of waters of the United States are permanently adversely affected by a regulated activity, such as discharges of dredged or fill material into waters of the United States that will convert a forested or scrub-shrub wetland to a herbaceous wetland in a permanently maintained utility line right-of-way, mitigation may be required to reduce the adverse environmental effects of the activity to the no more than minimal level.

24. <u>Safety of Impoundment Structures</u>

To ensure that all impoundment structures are safely designed, the district engineer may require non-Federal applicants to demonstrate that the structures comply with established state or federal, dam safety criteria or have

been designed by qualified persons. The district engineer may also require documentation that the design has been independently reviewed by similarly qualified persons, and appropriate modifications made to ensure safety.

25. Water Quality

(a) Where the certifying authority (state, authorized tribe, or EPA, as appropriate) has not previously certified compliance of an NWP with CWA section 401, a CWA section 401 water quality certification for the proposed discharge must be obtained or waived (see 33 CFR 330.4(c)). If the permittee cannot comply with all of the conditions of a water quality certification previously issued by certifying authority for the issuance of the NWP, then the permittee must obtain a water quality certification or waiver for the proposed discharge in order for the activity to be authorized by an NWP.

(b) If the NWP activity requires pre-construction notification and the certifying authority has not previously certified compliance of an NWP with CWA section 401, the proposed discharge is not authorized by an NWP until water quality certification is obtained or waived. If the certifying authority issues a water quality certification for the proposed discharge, the permittee must submit a copy of the certification to the district engineer. The discharge is not authorized by an NWP until the district engineer has notified the permittee that the water quality certification requirement has been satisfied by the issuance of a water quality certification or a waiver.

(c) The district engineer or certifying authority may require additional water quality management measures to ensure that the authorized activity does not result in more than minimal degradation of water quality.

26. Coastal Zone Management.

In coastal states where an NWP has not previously received a state coastal zone management consistency concurrence, an individual state coastal zone management consistency concurrence must be obtained, or a presumption of concurrence must occur (see 33 CFR 330.4(d)). If the permittee cannot comply with all of the conditions of a coastal zone management consistency concurrence previously issued by the state, then the permittee must obtain an individual coastal zone management consistency concurrence or presumption of concurrence in order for the activity to be authorized by an NWP. The district engineer or a state may require additional measures to ensure that the authorized activity is consistent with state coastal zone management requirements.

27. Regional and Case-By-Case Conditions

The activity must comply with any regional conditions that may have been added by the Division Engineer (see 33 CFR 330.4(e)) and with any case specific conditions added by the Corps or by the state, Indian Tribe, or U.S. EPA in its CWA section 401 Water Quality Certification, or by the state in its Coastal Zone Management Act consistency determination.

28. Use of Multiple Nationwide Permits

The use of more than one NWP for a single and complete project is authorized, subject to the following restrictions:

(a) If only one of the NWPs used to authorize the single and complete project has a specified acreage limit, the acreage loss of waters of the United States cannot exceed the acreage limit of the NWP with the highest specified acreage limit. For example, if a road crossing over tidal waters is constructed under NWP 14, with associated

bank stabilization authorized by NWP 13, the maximum acreage loss of waters of the United States for the total project cannot exceed 1⁄3-acre.

(b) If one or more of the NWPs used to authorize the single and complete project has specified acreage limits, the acreage loss of waters of the United States authorized by those NWPs cannot exceed their respective specified acreage limits. For example, if a commercial development is constructed under NWP 39, and the single and complete project includes the filling of an upland ditch authorized by NWP 46, the maximum acreage loss of waters of the United States for the commercial development under NWP 39 cannot exceed 1/2-acre, and the total acreage loss of waters of United States due to the NWP 39 and 46 activities cannot exceed 1 acre.

29. Transfer of Nationwide Permit Verifications

If the permittee sells the property associated with a nationwide permit verification, the permittee may transfer the nationwide permit verification to the new owner by submitting a letter to the appropriate Corps district office to validate the transfer. A copy of the nationwide permit verification must be attached to the letter, and the letter must contain the following statement and signature:

"When the structures or work authorized by this nationwide permit are still in existence at the time the property is transferred, the terms and conditions of this nationwide permit, including any special conditions, will continue to be binding on the new owner(s) of the property. To validate the transfer of this nationwide permit and the associated liabilities associated with compliance with its terms and conditions, have the transferee sign and date below."

_____

_____

(Transferee)

_____

_____

(Date)

30. Compliance Certification

Each permittee who receives an NWP verification letter from the Corps must provide a signed certification documenting completion of the authorized activity and implementation of any required compensatory mitigation. The success of any required permittee-responsible mitigation, including the achievement of ecological performance standards, will be addressed separately by the district engineer. The Corps will provide the permittee the certification document with the NWP verification letter. The certification document will include:

(a) A statement that the authorized activity was done in accordance with the NWP authorization, including any general, regional, or activity-specific conditions;

(b) A statement that the implementation of any required compensatory mitigation was completed in accordance with the permit conditions. If credits from a mitigation bank or in-lieu fee program are used to satisfy the compensatory mitigation requirements, the certification must include the documentation required by 33 CFR 332.3(l)(3) to confirm that the permittee secured the appropriate number and resource type of credits; and

(c) The signature of the permittee certifying the completion of the activity and mitigation.

The completed certification document must be submitted to the district engineer within 30 days of completion of the authorized activity or the implementation of any required compensatory

mitigation, whichever occurs later.

31. Activities Affecting Structures or Works Built by the United States

If an NWP activity also requires review by, or permission from, the Corps pursuant to 33 U.S.C. 408 because it will alter or temporarily or permanently occupy or use a U.S. Army Corps of Engineers (USACE) federally authorized Civil Works project (a "USACE project"), the prospective permittee must submit a pre-construction notification. See paragraph (b)(10) of general condition 32. An activity that requires section 408 permission and/or review is not authorized by an NWP until the appropriate Corps office issues the section 408 permission or completes its review to alter, occupy, or use the USACE project, and the district engineer issues a written NWP verification.

32. Pre-Construction Notification

(a) *Timing*. Where required by the terms of the NWP, the prospective permittee must notify the district engineer by submitting a pre-construction notification (PCN) as early as possible. The district engineer must determine if the PCN is complete within 30 calendar days of the date of receipt and, if the PCN is determined to be incomplete, notify the prospective permittee within that 30 day period to request the additional information necessary to make the PCN complete. The request must specify the information needed to make the PCN complete. As a general rule, district engineers will request additional information necessary to make the PCN complete only once. However, if the prospective permittee does not provide all of the requested information, then the district engineer will notify the prospective permittee that the PCN is still incomplete and the PCN review process will not commence until all of the requested information has been received by the district engineer. The prospective permittee shall not begin the activity until either:

(1) He or she is notified in writing by the district engineer that the activity may proceed under the NWP with any special conditions imposed by the district or division engineer; or

(2) 45 calendar days have passed from the district engineer's receipt of the complete PCN and the prospective permittee has not received written notice from the district or division engineer. However, if the permittee was required to notify the Corps pursuant to general condition 18 that listed species or critical habitat might be affected or are in the vicinity of the activity, or to notify the Corps pursuant to general condition 20 that the activity might have the potential to cause effects to historic properties, the permittee cannot begin the activity until receiving written notification from the Corps that there is "no effect" on listed species or "no potential to cause effects" on historic properties, or that any consultation required under Section 7 of the Endangered Species Act (see 33 CFR 330.4(f)) and/or section 106 of the National Historic Preservation Act (see 33 CFR 330.4(g)) has been completed. If the proposed activity requires a written waiver to exceed specified limits of an NWP, the permittee may not begin the activity until the district engineer issues the waiver. If the district or division engineer notifies the permittee in writing that an individual permit is required within 45 calendar days of receipt of a complete PCN, the permittee cannot begin the activity until an individual permit has been obtained. Subsequently, the permittee's right to proceed under the NWP may be modified, suspended, or revoked only in accordance with the procedure set forth in 33 CFR 330.5(d)(2).

(b) *Contents of Pre-Construction Notification*: The PCN must be in writing and include the following information:

(1) Name, address and telephone numbers of the prospective permittee;

(2) Location of the proposed activity;

(3) Identify the specific NWP or NWP(s) the prospective permittee wants to use to authorize the proposed activity;

(4) (i) A description of the proposed activity; the activity's purpose; direct and indirect adverse environmental effects the activity would cause, including the anticipated amount of loss of wetlands, other special aquatic sites, and other waters expected to result from the NWP activity, in acres, linear feet, or other appropriate unit of measure; a description of any proposed mitigation measures intended to reduce the adverse environmental effects caused by the proposed activity; and any other NWP(s), regional general permit(s), or individual permit(s) used or intended to be used to authorize any part of the proposed project or any related activity, including other separate and distant crossings for linear projects that require Department of the Army authorization but do not require pre-construction notification. The description of the proposed activity and any proposed mitigation measures should be sufficiently detailed to allow the district engineer to determine that the adverse environmental effects of the activity will be no more than minimal and to determine the need for compensatory mitigation or other mitigation measures.

(ii) For linear projects where one or more single and complete crossings require pre-construction notification, the PCN must include the quantity of anticipated losses of wetlands, other special aquatic sites, and other waters for each single and complete crossing of those wetlands, other special aquatic sites, and other waters (including those single and complete crossings authorized by an NWP but do not require PCNs). This information will be used by the district engineer to evaluate the cumulative adverse environmental effects of the proposed linear project, and does not change those non-PCN NWP activities into NWP PCNs.

(iii) Sketches should be provided when necessary to show that the activity complies with the terms of the NWP. (Sketches usually clarify the activity and when provided results in a quicker decision. Sketches should contain sufficient detail to provide an illustrative description of the proposed activity (e.g., a conceptual plan), but do not need to be detailed engineering plans);

(5) The PCN must include a delineation of wetlands, other special aquatic sites, and other waters, such as lakes and ponds, and perennial and intermittent streams, on the project site. Wetland delineations must be prepared in accordance with the current method required by the Corps. The permittee may ask the Corps to delineate the special aquatic sites and other waters on the project site, but there may be a delay if the Corps does the delineation, especially if the project site is large or contains many wetlands, other special aquatic sites, and other waters. Furthermore, the 45-day period will not start until the delineation has been submitted to or completed by the Corps, as appropriate;

(6) If the proposed activity will result in the loss of greater than 1/10-acre of wetlands or 3/100-acre of stream bed and a PCN is required, the prospective permittee must submit a statement describing how the mitigation requirement will be satisfied, or explaining

why the adverse environmental effects are no more than minimal and why compensatory mitigation should not be required. As an alternative, the prospective permittee may submit a conceptual or detailed mitigation plan.

(7) For non-federal permittees, if any listed species (or species proposed for listing) or designated critical habitat (or critical habitat proposed for such designation) might be affected or is in the vicinity of the activity, or if the activity is located in designated critical habitat (or critical habitat proposed for such designation), the PCN must include the name(s) of those endangered or threatenedspecies (or species proposed for listing) that might be affected by the proposed activity or utilize the designated critical habitat (or critical habitat proposed for such designation) that might be affected by the proposed activity. For NWP activities that require pre-construction notification, Federal permittees must provide documentation demonstrating compliance with the Endangered Species Act;

(8) For non-federal permittees, if the NWP activity might have the potential to cause effects to a historic property listed on, determined to be eligible for listing on, or potentially eligible for listing on, the National Register of Historic Places, the PCN must state which historic property might have the potential to be affected by the proposed activity or include a vicinity map indicating the location of the historic property. For NWP activities that require pre-construction notification, Federal permittees must provide documentation demonstrating compliance with section 106 of the National Historic Preservation Act;

(9) For an activity that will occur in a component of the National Wild and Scenic River System, or in a river officially designated by Congress as a "study river" for possible inclusion in the system while the river is in an official study status, the PCN must identify the Wild and Scenic River or the "study river" (see general condition 16); and

(10) For an NWP activity that requires permission from, or review by, the Corps pursuant to 33 U.S.C. 408 because it will alter or temporarily or permanently occupy or use a U.S. Army Corps of Engineers federally authorized civil works project, the pre-construction notification must include a statement confirming that the project proponent has submitted a written request for section 408 permission from, or review by, the Corps office having jurisdiction over that USACE project.

(c) *Form of Pre-Construction Notification*: The nationwide permit pre-construction notification form (Form ENG 6082) should be used for NWP PCNs. A letter containing the required information may also be used. Applicants may provide electronic files of PCNs and supporting materials if the district engineer has established tools and procedures for electronic submittals.

(d) *Agency Coordination*: (1) The district engineer will consider any comments from Federal and state agencies concerning the proposed activity's compliance with the terms and conditions of the NWPs and the need for mitigation to reduce the activity's adverse environmental effects so that they are no more than minimal.

(2) Agency coordination is required for: (i) all NWP activities that require pre-construction notification and result in the loss of greater than 1/2-acre of waters of the United States; (ii) NWP 13 activities in excess of 500 linear feet, fills greater than one cubic yard per running foot, or involve discharges of dredged or fill material into special aquatic sites; and (iii)

NWP 54 activities in excess of 500 linear feet, or that extend into the waterbody more than 30 feet from the mean low water line in tidal waters or the ordinary high water mark in the Great Lakes.

(3) When agency coordination is required, the district engineer will immediately provide (e.g., via e-mail, facsimile transmission, overnight mail, or other expeditious manner) a copy of the complete PCN to the appropriate Federal or state offices (FWS, state natural resource or water quality agency, EPA, and, if appropriate, the NMFS). With the exception of NWP 37, these agencies will have 10 calendar days from the date the material is transmitted to notify the district engineer via telephone, facsimile transmission, or e-mail that they intend to provide substantive, site-specific comments. The comments must explain why the agency believes the adverse environmental effects will be more than minimal. If so contacted by an agency, the district engineer will wait an additional 15 calendar days before making a decision on the pre-construction notification. The district engineer will fully consider agency comments received within the specified time frame concerning the proposed activity's compliance with the terms and conditions of the NWPs, including the need for mitigation to ensure that the net adverse environmental effects of the proposed activity are no more than minimal. The district engineer will provide no response to the resource agency, except as provided below. The district engineer will indicate in the administrative record associated with each pre-construction notification that the resource agencies' concerns were considered. For NWP 37, the emergency watershed protection and rehabilitation activity may proceed immediately in cases where there is an unacceptable hazard to life or a significant loss of property or economic hardship will occur. The district engineer will consider any comments received to decide whether the NWP 37 authorization should be modified, suspended, or revoked in accordance with the procedures at 33 CFR 330.5.

(4) In cases of where the prospective permittee is not a Federal agency, the district engineer will provide a response to NMFS within 30 calendar days of receipt of any Essential Fish Habitat conservation recommendations, as required by section 305(b)(4)(B) of the Magnuson-Stevens Fishery Conservation and Management Act.

(5) Applicants are encouraged to provide the Corps with either electronic files or multiple copies of pre-construction notifications to expedite agency coordination.

STATE OF IDAHO
DEPARTMENT OF
ENVIRONMENTAL QUALITY

1410 N Hilton Street, Boise, ID 83706
(208) 373-0502

Brad Little, Governor
Jess Byrne, Director

December 4, 2020

Kelly J. Urbanek, Chief
U.S. ACOE Regulatory Division
Walla Walla District
720 East Park Boulevard, Suite 245
Boise, Idaho 83712-7757

Subject: Final §401 Water Quality Certification for 2020 Nationwide Permits in Idaho

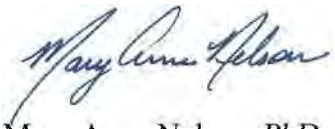
Dear Ms. Urbanek:

Enclosed please find the Idaho Department of Environmental Quality (DEQ) final water quality certification for the 2020 Nationwide Permits in Idaho. DEQ offered a 21-day public comment period, beginning on November 2, 2020, and ending on November 23, 2020.

DEQ received a single comment letter. After review of the comments received, minor modifications were made to the final certification in order to provide additional clarity.

If you have any questions or concerns regarding this certification, please contact Jason Pappani at (208) 373-0515 or via email at jason.pappani@deq.idaho.gov.

Sincerely,



Mary Anne Nelson, PhD
Surface and Wastewater Division Administrator

MAN:JP:lf

cc: Jason Pappani, DEQ State Office
DEQ Regional Administrators
James Joyner, ACOE Walla Walla District
Brent King, Idaho Attorney General's Office

Idaho Department of Environmental Quality

Final §401 Water Quality Certification

December 4, 2020

2020 U.S. Army Corps of Engineers §404 Nationwide Permits (NWPs)

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 activities receiving Section 404 dredge and fill permits and issue water quality certification decisions.

Based upon its review of the proposed 2020 Nationwide Permits published in the Federal Register on September 15, 2020, DEQ certifies that if the permittee complies with the terms and conditions imposed by the permits, including the Regional Conditions set forth by the Army Corps of Engineers (ACOE), along with the conditions set forth in this water quality certification, then activities will comply with the applicable water quality 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, including without limitation, the approval from the owner of a private water conveyance system, if one is required, to use the system in connection with the permitted activities.

1 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).

1.1 Pollutants of Concern

The primary pollutant of concern, for projects permitted under the 2020 NWPs administered by the ACOE, is sediment. In locations where heavy metals are present due to mining activities, or where high concentrations of nutrients may be associated with sediments, additional considerations may be necessary. If the project reduces riparian vegetation, then temperature (thermal loading) may also be of concern.

The procedures outlined in the Sediment Evaluation Framework for the Pacific Northwest[1] may be applied to assess and characterize sediment to determine the suitability of dredged material for unconfined aquatic placement, to determine the suitability of post dredge surfaces, and to predict effects on water quality during dredging (See Section 2.4 for more details).

As part of the Section 401 water quality certification, DEQ is requiring the applicant to comply with various conditions to protect water quality and to meet Idaho WQS, including the criteria applicable to sediment.

1.2 Receiving Water Body Level of Protection

The ACOE NWPs authorize construction activities in waters of the United States. In Idaho, jurisdictional waters of the state can potentially receive discharges either directly or indirectly from activities authorized under the NWPs. DEQ applies a water body by water body approach to determine the level of antidegradation protection a water body will receive. (IDAPA 58.01.02.052.05).

All waters in Idaho that receive discharges from activities authorized under a NWP will receive, at minimum, Tier I antidegradation protection because Idaho's Tier I antidegradation policy applies to all state waters (IDAPA 58.01.02.052.01). Water bodies that fully support their aquatic life or recreational uses are considered *high quality waters* and will receive Tier II antidegradation protection (IDAPA 58.01.02.051.02). Because of the statewide applicability, the antidegradation review will assess whether the NWP permit complies with both Tier I and Tier II antidegradation provisions (IDAPA 58.01.02.052.03).

Although Idaho does not currently have any Tier III designated outstanding resource waters (ORWs), it is possible for a water body to be designated as an ORW during the life of the NWPs.

[1] Northwest Regional Sediment Evaluation Team (RSET). 2018. Sediment Evaluation Framework for the Pacific Northwest. *Prepared by* the RSET Agencies, May 2018, 183 pp plus appendices.

Because of this potential, the antidegradation review also assesses whether the permit complies with the outstanding resource water requirements of Idaho's antidegradation policy (IDAPA 58.01.02.051.03).

To determine the support status of the receiving water body, the most recent EPA-approved Integrated Report, available on Idaho DEQ's website, is to be used: http://www.deq.idaho.gov/water-quality/surface-water/monitoring-assessment/integrated-report/. (IDAPA 58.01.02.052.05).

High quality waters are identified in Categories 1 and 2 of the Integrated Report. If a water body is in either Category 1 or 2, it is a Tier II water body.

Unassessed waters are identified in Category 3 of DEQ's Integrated Report. These waters require a case by case determination to be made by DEQ based on available information at the time of the application for permit coverage (IDAPA 58.01.02.052.05.b). For activities occurring on unassessed waters under this certification, DEQ has determined that complying with the conditions of the NWP, the regional conditions, and this certification will ensure the provisions of IDAPA 58.01.02.052 are met.

Impaired waters are identified in Categories 4 and 5 of the Integrated Report. Category 4(a) contains impaired waters for which a TMDL has been approved by EPA. Category 4(b) contains impaired waters for which controls other than a TMDL have been approved by EPA. Category 5 contains waters which have been identified as "impaired", for which a TMDL is needed. These waters are Tier I waters, for the use which is impaired. With the exception, if the aquatic life uses are impaired for any of these three pollutants—dissolved oxygen, pH, or temperature—and the biological or aquatic habitat parameters show a healthy, balanced biological community, then the water body shall receive Tier II protection, in addition to Tier I protection, for aquatic life uses (IDAPA 58.01.02.052.05.c.i).

DEQ's webpage also has a link to the state's map-based Integrated Report which presents information from the Integrated Report in a searchable, map-based format: http://www.deq.idaho.gov/assistance-resources/maps-data/.
Water bodies can be in multiple categories for different causes. If assistance is needed in using these tools, or if additional information/clarification regarding the support status of the receiving water body is desired, please feel free to contact your nearest DEQ regional office or the State Office (Table 1).

Table 1. Idaho DEQ Regional and State Office Contacts

Regional Office	*Address*	*Phone Number*	*Email*
Boise	1445 N. Orchard Rd., Boise 83706	208-373-0550	kati.carberry@deq.idaho.gov
Coeur d'Alene	2110 Ironwood Parkway, Coeur d'Alene 83814	208-769-1422	chantilly.higbee@deq.idaho.gov
Idaho Falls	900 N. Skyline, Suite B., Idaho Falls 83402	208-528-2650	troy.saffle@deq.idaho.gov
Lewiston	1118 "F" St., Lewiston 83501	208-799-4370	sujata.connell@deq.idaho.gov
Pocatello	444 Hospital Way, #300 Pocatello 83201	208-236-6160	matthew.schenk@deq.idaho.gov
Twin Falls	650 Addison Ave. W., Suite 110, Twin Falls 83301	208-736-2190	balthasar.buhidar@deq.idaho.gov
State Office	1410 N. Hilton Rd., Boise 83706	208-373-0502	jason.pappani@deq.idaho.gov

1.3 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 uses and the level of water quality necessary to protect existing uses shall be maintained and protected (IDAPA 58.01.02.051.01; 052.01 and 04). The numeric and narrative criteria in the WQS are set at levels that ensure protection of existing and designated beneficial uses.

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 (IDAPA 58.01.02.055.02). Once a TMDL is completed, discharges of causative pollutants shall be consistent with the allocations in the TMDL (IDAPA 58.01.02.055.05). Prior to the completion of a TMDL, the WQS require the application of the antidegradation policy and implementation provisions to maintain and protect beneficial uses (IDAPA 58.01.02.055.04).

The general (non-numeric) effluent limitations in the NWPs and associated Regional Conditions for the ACOE Walla Walla District address best management practices (BMPs) aimed at minimizing impacts to the aquatic environment, especially sediment and turbidity impacts including: vegetation protection and restoration, de-watering requirements, erosion and sediment controls, soil stabilization requirements, pollution prevention measures, prohibited discharges, and wildlife considerations. Although the NWPs do not contain specific (numeric) effluent limitations for sediment or turbidity, the conditions identified in the permits and in this water quality certification will ensure compliance with DEQ's water quality standards, including the narrative sediment criteria (IDAPA 58.01.02.200.08) and DEQ's turbidity criteria (IDAPA 58.01.02.250.02.e).

In order to ensure compliance with Idaho WQS, DEQ has included a condition requiring the permittee(s) to comply with Idaho's numeric turbidity criteria, developed to protect aquatic life

uses. The criterion states, "Turbidity shall not exceed background turbidity by more than 50 nephelometric turbidity units (NTU)[2] instantaneously or more than 25 NTU for more than 10 consecutive days" (IDAPA 58.01.02.250.02.e). DEQ is requiring turbidity monitoring when project activities result in a discharge to waters of the United States that causes a visible sediment plume (IDAPA 58.01.02.054.01) (See Section 2.5 for more details).

If an approved TMDL exists for a receiving water body that requires a load reduction for a pollutant of concern, then the project must be consistent with the provisions of that TMDL (IDAPA 58.01.02.055.05).
For authorized activities requiring a pre-construction notification (PCN), the Corps will have the opportunity to evaluate the NWP activities on a case by case basis to ensure that the activity will not cause more than a minimal adverse environmental effect, individually and cumulatively. The Corps has agreed to forward the verification letters to the appropriate DEQ regional office (Table 1) for all authorized activities including the NWP activities that require a PCN. This will better inform DEQ of the authorized activities that are occurring throughout the state and determine if additional conditions will need to be implemented when the ACOE reissues the NWPs.

1.3.1 DEQ's Determination

DEQ concludes that, given the nature of the activities authorized by the 2020 NWPs, such activities will comply with Idaho's Tier I requirements under IDAPA 58.01.02.051.01 and 58.01.02.052.07, provided the permitted activities are carried out in compliance with the limitations and associated requirements of the 2020 NWPs, Regional Conditions, and conditions set forth in this water quality certification.

1.4 Protection of High-Quality Waters (Tier II Protection)

Water bodies that fully support their beneficial uses are recognized as high-quality waters and will be provided Tier II protection in addition to Tier I protection (IDAPA 58.01.02.051.02; 58.01.02.052.05.a). Water quality parameters applicable to existing or designated beneficial uses must be maintained and protected under Tier II, unless a lowering of water quality is deemed necessary to accommodate important economic or social development (IDAPA 58.01.02.051.02; 58.01.02.052.08).

The ACOE does not authorize projects with more than minimal individual and cumulative impacts on the aquatic environment under a NWP (33 U.S.C.A. § 1344(e)). As required by the National Environmental Policy Act (NEPA) the Corps has analyzed the individual and cumulative effects for the NWP activities. DEQ recognizes that short term changes in water quality may occur with respect to sediment as a result of the authorized activities, but has determined that adherence to the terms and conditions imposed by the permits, including the Regional Conditions set forth by the Army Corps of Engineers (ACOE or Corps), along with the conditions set forth in this water quality certification will ensure that there are no long-term adverse changes to water quality or beneficial use support as a result of any activity authorized under this certification (IDAPA 58.01.02.052.03). As a general principle, DEQ believes degradation of water quality should be viewed in terms of permanent or long-term adverse

[2] *NTU is a unit of measure of the concentration of suspended particles in the water (turbidity). It is determined by shining a light through a sample and measuring the incident light scattered at right angles from the sample.*

changes. Short-term or temporary reductions in water quality, if reasonable measures are taken to minimize them (such as the certification conditions in Section 2), may occur without triggering a Tier II analysis (IDAPA 58.01.02.052.03; 080.02).

To ensure proposed regulated activities will not cause more than minimal individual and cumulative impacts on the aquatic environment, certain NWPs require project proponents to notify district engineers (in the form of a PCN) of their proposed activities prior to conducting regulated activities. This level of review gives the district engineer the opportunity to evaluate activities on a case by case basis to determine whether additional conditions or mitigation requirements are warranted to ensure that the proposed activity results in no more than the minimal individual and cumulative impacts on the aquatic environment.

DEQ has denied certification for NWP 16, NWP 23, and NWP 53 (see Section 3.1); and for certain activities associated with NWP 3, NWP 12, NWP 13, NWP 14, NWP 21, NWP 29, NWP 39, NWP 40, NWP 42, NWP 43, NWP 44, NWP 50, NWP 51, NWP 52, NWP C, NWP D, and NWP E (see Section 3.2). Projects seeking coverage under these NWPs will need to request individual certification from DEQ. DEQ will consider any additional conditions or denial of certification if necessary to ensure no lowering of water quality occurs for any of these projects proposed on Tier II water.

Additionally, if an authorized project causes a visible sediment plume then turbidity monitoring is required (see Section 2.5 for more details).

1.4.1 DEQ's Determination

DEQ concludes that the activities authorized by the 2020 NWPs and this certification will comply with Idaho's Tier II requirements under IDAPA 58.01.02.051.02 and 58.01.02.052.08 providing permitted activities are carried out in compliance with the limitations and associated requirements of the 2020 NWPs, Regional Conditions, and conditions of this water quality certification.

1.5 Protection of Outstanding Resource Waters (Tier III Protection)

Idaho's antidegradation policy requires that the quality of outstanding resource waters (ORWs) be maintained and protected from the impacts of point and nonpoint source activities (IDAPA 58.01.02.051.03). No water bodies in Idaho have been designated as ORWs to date. Because it is possible waters may become designated during the term of the 2020 NWPs, DEQ has evaluated whether the NWPs comply with the ORW antidegradation provision.

DEQ has denied certification for any activities on any Outstanding Resource Water (ORW) (see Section 3) and is requiring that any activities proposed on an ORW apply for individual certification (see Section 2.3).

1.5.1 DEQ's Determination

DEQ concludes that the activities authorized by the 2020 NWPs and this certification will comply with Idaho's Tier III requirements under IDAPA 58.01.02.051.03 providing permitted activities are carried out in compliance with the limitations and associated requirements of the 2020 NWPs, Regional Conditions, and conditions of this water quality certification.

2 Conditions Necessary to Ensure Compliance with Water Quality Standards or Other Appropriate Water Quality Requirements of State Law

For all activities covered under this certification, the following conditions are necessary to ensure that permitted projects comply with water quality requirements.

2.1 Design, Implementation, and Maintenance of Appropriate Best Management Practices

Best Management Practices (BMPs) must be designed, implemented, and maintained by the permittee to fully protect and maintain the beneficial uses and ambient water quality of waters of the state and to prevent exceedances of WQS (IDAPA 58.01.02.350.01.a).

BMPs must be selected and properly installed. Proper installation and operation of BMPs are required to ensure the provisions of IDAPA 58.01.02.052 are met. In order to ensure that BMPs are operating properly and to demonstrate that degradation has not occurred, the permittee must monitor and evaluate BMP effectiveness daily during project activities to assure that water quality standards are being met.

Approved BMPs for specific activities (mining, forestry, stream channel alteration, etc.) are codified in IDAPA 58.01.02.350. Additionally, DEQ provides a catalog of storm water best management practices, available at: http://www.deq.idaho.gov/media/60184297/stormwater-bmp-catalog.pdf. This catalog presents a variety of BMPs that can be used to control erosion and sediment during and after construction. Other sources of information are also available and may be used for selecting project appropriate BMPs.

This condition is necessary meet the following water quality requirements:

Control of erosion, sediment, and turbidity to maintain beneficial use support and compliance with the following water quality standards:

- General Surface Water Criteria for Sediment (IDAPA 58.01.02.200.08)
- Numeric Turbidity Criteria for Aquatic Life (IDAPA 58.01.02.250.02.e)
- Numeric turbidity criteria for protection of domestic water supply (IDAPA 58.01.02.252.01.b)
- Point source wastewater treatment requirements (IDAPA 58.01.02.401.02)

2.2 TMDL Compliance

If there is an approved or established TMDL, then the permittee must comply with the established loads in the TMDL. Approved TMDLs can be found on DEQ's website (https://www.deq.idaho.gov/water-quality/surface-water/tmdls/table-of-sbas-tmdls/) or by contacting the appropriate regional office contact (Table 1).

This condition is necessary to meet the following water quality requirements:

Ensure projects are consistent with waste load and load allocations established in approved TMDLs (IDAPA 58.01.02.055.04 and .05).

2.3 Outstanding Resource Waters

If waters become designated as ORWs during the term of the NWPs, a permittee proposing a project on an ORW must contact the appropriate DEQ regional office and apply for individual certification.

This condition is necessary to meet the following water quality requirements:

Ensure there is no lowering of water quality in any ORW as required by the Idaho Antidegradation Policy (IDAPA 58.01.02.051.03).

2.4 Fill Material

Material subject to suspension, including suspended dredge material, shall be free of easily suspended fine material. The fill material to be placed in waters of the United States shall be clean material only. If dredged material is proposed to be used as fill material and there is a possibility the material may be contaminated, then the permittee must apply the procedures in the *Sediment Evaluation Framework for the Pacific Northwest* (RSET, 2018) to assess and characterize sediment to determine the suitability of dredged material for unconfined-aquatic placement; determine the suitability of post dredge surfaces; and to predict effects on water quality during dredging.

This condition is necessary to meet the following water quality requirements:

Prevent suspension of fine sediment and turbidity in order to provide beneficial use support and compliance with the following water quality standards:

- General Surface Water Criteria for Sediment (IDAPA 58.01.02.200.08)
- Numeric Turbidity Criteria for Aquatic Life (IDAPA 58.01.02.250.02.e)
- Numeric turbidity criteria for protection of domestic water supply (IDAPA 58.01.02.252.01.b)
- Point source wastewater treatment requirements (IDAPA 58.01.02.401.02)

Prevent suspension of hazardous, toxic, or deleterious materials or other pollutants that may be associated with fill material in order to ensure beneficial use support and compliance with the following water quality standards:

- General Surface Water Criteria for hazardous materials (IDAPA 58.01.02.200.01), toxic substances (IDAPA 58.01.02.200.02), deleterious materials (IDAPA 58.01.02.200.03), excess nutrients (IDAPA 58.01.02.200.06), or oxygen demanding materials (IDAPA 58.01.02.200.09)
- Numeric toxics criteria for aquatic life and human health (IDAPA 58.01.02.210)

2.5 Turbidity

If no visible sediment plume is present, it is reasonable to assume that there is no potential violation of the water quality criteria for turbidity (IDAPA 58.01.02.250.02.e). Therefore, turbidity monitoring is only required when activities cause a visible sediment plume.

A properly and regularly calibrated turbidimeter is required for measurements analyzed in the field, but grab samples may be collected and taken to a laboratory for analysis. When monitoring is required a sample must be taken at an undisturbed area immediately up-current from in-water disturbance or discharge to establish background turbidity levels. Background turbidity, latitude/longitude, date, and time must be recorded prior to monitoring down-current. Then a sample must be collected immediately down-current from the in-water disturbance or point of discharge and within any visible sediment plume. The turbidity, latitude/longitude, date, and time must be recorded for each sample. The downstream sample must be taken immediately following the upstream sample in order to obtain meaningful and representative results.

Results from the down-current sampling point must be compared to the up-current or background level to determine whether project activities are causing an exceedance of state WQS. If the downstream turbidity is 50 NTUs or more greater than the upstream turbidity, then the project is causing an exceedance of the WQS (IDAPA 58.01.02.250.02.e).
Any exceedance of the turbidity standard must be reported to the appropriate DEQ regional office (Table 1) within 24 hours.

The following steps should be followed to ensure compliance with the turbidity standard:

1. If a visible plume is observed, collect turbidity measurements at 1) an upstream location; and, 2) from within the plume, and compare the results to Idaho's instantaneous numeric turbidity criterion (50 NTU over background).
2. If turbidity in the plume is less than 50 NTU instantaneously over the background turbidity continue monitoring as long as the plume is visible. If turbidity exceeds background turbidity by more than 50 NTU instantaneously then stop all earth disturbing construction activities immediately and proceed to Step 3. If turbidity exceeds background turbidity by more than 25 NTU, or if a visible plume is observed for more than 10 consecutive days, then stop all earth disturbing construction activities and proceed to Step 3.
3. Notify the appropriate DEQ regional office within 24 hours of any turbidity criteria exceedance. Take action to address the cause of the exceedance. That may include inspecting the condition of project BMPs. If the BMPs are functioning to their fullest capability, then the permittee must modify project activities and/or BMPs to correct the exceedance.
4. Earth disturbing activities may continue once turbidity readings return to within 50 NTU over background instantaneously; or, if turbidity has exceeded 25 NTU over background for more than ten consecutive days, once turbidity readings have no longer exceeded 25 NTU over background for at least 24 consecutive hours.

Copies of daily logs for turbidity monitoring must be available to DEQ upon request. The report must describe all exceedances and subsequent actions taken, including the effectiveness of the action.

This condition is necessary to meet the following water quality requirements:

Ensure that activities do not impair beneficial uses, and ensure and document compliance with the following water quality standards:

- General Surface Water Criteria for Sediment (IDAPA 58.01.02.200.08)
- Numeric Turbidity Criteria for Aquatic Life (IDAPA 58.01.02.250.02.e)
- Numeric turbidity criteria for protection of domestic water supply (IDAPA 58.01.02.252.01.b)

2.6 Mixing Zones

No mixing zones are authorized through this certification. If a mixing zone, or alternatively, a point of compliance, is desired, the permittee must apply for an individual certification and must contact the appropriate DEQ regional office (Table 1) to request authorization for a mixing zone.

This condition is necessary to meet the following water quality requirements:

Ensure any mixing zone is properly authorized in accordance with the Idaho Mixing Zone Policy (IDAPA 58.01.02.060).

2.7 Culverts

To prevent road surface and culvert bedding material from entering a stream, culvert crossings must include best management practices to retain road base and culvert bedding material. For perennial waters, the permittee should consider the Idaho Stream Channel Alterations rules (IDAPA 37.03.07). Another source of BMPs for culvert installation can be found in the Idaho Forest Practices Act (IDAPA 20.20.01). Examples of best management practices include, but are not limited to: parapets, wing walls, inlet and outlet rock armoring, compaction, suitable bedding material, anti-seep barriers such as bentonite clay, or other acceptable roadway retention systems.

This condition is necessary to meet the following water quality requirements:

Control of erosion, sediment, and turbidity to provide beneficial use support and compliance with the following water quality standards:

- General Surface Water Criteria for Sediment (IDAPA 58.01.02.200.08)
- Numeric Turbidity Criteria for Aquatic Life (IDAPA 58.01.02.250.02.e)
- Numeric turbidity criteria for protection of domestic water supply (IDAPA 58.01.02.252.01.b)

2.8 Wood Preservatives

DEQ's *Guidance for the Use of Wood Preservatives and Preserved Wood Products In or Around Aquatic Environments* must be considered when using treated wood materials in the aquatic environment. Within this guidance document DEQ references the *Best Management Practices*

for the Use of Treated Wood in Aquatic and Wetland Environments[3]. This document provides recommended guidelines for the production and installation of treated wood products destined for use in sensitive environments.

This condition is necessary to meet the following water quality requirements:

Ensure that toxic chemicals are not introduced into waters and to ensure compliance with the following water quality standards:

- General Surface Water Criteria for hazardous materials (IDAPA 58.01.02.200.01), toxic substances (IDAPA 58.01.02.200.02), and deleterious materials (IDAPA 58.01.02.200.03)
- Numeric toxics criteria for aquatic life and human health (IDAPA 58.01.02.210)

2.9 Reporting of Discharges Containing Hazardous Materials or Deleterious Materials

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 appropriate DEQ regional office in Table 2 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

Table 2. Idaho DEQ regional contacts for reporting discharge or spill of hazardous or deleterious materials.

Regional Office	*Toll Free Phone Number*	*Phone Number*
Boise	888-800-3480	208-373-0550
Coeur d'Alene	877-370-0017	208-769-1422
Idaho Falls	800-232-4635	208-528-2650
Lewiston	877-541-3304	208-799-4370
Pocatello	888-655-6160	208-236-6160
Twin Falls	800-270-1663	208-736-2190

[3] Western Wood Preservers Institute, Wood Preservation Canada, Southern Pressure Treaters' Association, and Southern Forest Products Association. 2011. "Best Management Practices: For the Use of Treated Wood in Aquatic and Wetland Environments" Vancouver, WA: Western Wood Preservers Institute.

This condition is necessary to meet the following water quality requirements:

Ensure compliance with the following water quality standards:

- Hazardous Material Spills (IDAPA 58.01.02.850)
- Petroleum release reporting, investigation, and confirmation (IDAPA 58.01.02.851)
- Petroleum release response and corrective action (IDAPA 58.01.02.852)

2.10 Other Conditions

This certification is conditioned upon the requirement that if there are material modifications of the NWPs or the permitted activities—including without limitation, significant changes from the draft NWPs to final NWPs, or significant changes to the draft Regional Conditions, then DEQ must re-evaluate the certification to determine compliance with Idaho WQS and to provide additional certification pursuant to Section 401.

This condition is necessary to ensure that DEQ can evaluate any material modification to ensure it meets water quality requirements and complies with the Idaho antidegradation policy (IDAPA 58.01.02.051) and its implementation (IDAPA 58.01.02.052), general surface water quality criteria (200), numeric toxics criteria for aquatic life and human health (IDAPA 58.01.02.210), numeric criteria for aquatic life (IDAPA 58.01.02.250), recreation (IDAPA 58.01.02.251), and water supply uses (IDAPA 58.01.02.252).

3 Projects for Which Certification Is Denied

DEQ cannot certify that the following activities will comply with water quality requirements, including State WQS and other appropriate requirements of state law, and is therefore denying certification for the activities listed below.

For activities for which certification has been denied, the applicant will be required to request an individual certification before the activity can be conducted. Individual certification requests will provide DEQ with the opportunity to review project details and determine if additional conditions are necessary to ensure that water quality requirements will be met.

Upon review and evaluation of individual certification requests, DEQ may 1) certify without condition, 2) provide individual certification with conditions necessary to ensure water quality requirements will be met, or 3) deny certification for projects that will not meet water quality requirements.

3.1 NWPs denied

DEQ denies certification for all activities proposed to occur on waters designated as ORWs during the term of the permit. This denial is necessary to ensure compliance with the water quality requirements of Idaho's antidegradation policy (IDAPA 58.01.02.051.03) and implementation procedures (IDAPA 58.01.02.052.09.g).

In addition, the following NWPs are denied certification for all Idaho waters. Projects seeking coverage under these NWPs must request individual certification from DEQ.

NWP 16 - Return Water from Upland Contained Disposal Areas

Basis for denial:

Return water from upland disposal areas has the potential to contribute turbidity, sediment, and other toxic and non-toxic pollutants to receiving waters.

To ensure that discharge from upland contained disposal areas meets water quality requirements, DEQ must evaluate the quality of the return water and evaluate the potential pollutants associated with return water on a case-by-case basis to determine compliance with general surface water quality criteria (IDAPA 58.01.02.200); numeric toxics criteria for aquatic life and human health (IDAPA 58.01.02.210); and use specific criteria for aquatic life (IDAPA 58.01.02.250), recreation (IDAPA 58.01.02.251), and water supply uses (IDAPA 58.01.02.252).

NWP 23 - Approved Categorical Exclusions

Basis for denial:

DEQ is unable to determine that meeting the requirements for categorical exclusion under the National Environmental Policy Act will meet state water quality requirements.

DEQ will evaluate categorically excluded activities on a case-by-case basis to determine compliance with general surface water quality criteria (IDAPA 58.01.02.200); numeric toxics criteria for aquatic life and human health (IDAPA 58.01.02.210); and use specific criteria for aquatic life (IDAPA 58.01.02.250), recreation (IDAPA 58.01.02.251), and water supply uses (IDAPA 58.01.02.252).

NWP 53 – Removal of Low-Head Dams

Basis for denial:

Material released from the removal of low head dams has the potential to contribute turbidity, sediment, and other toxic and non-toxic pollutants to receiving waters.

In order to ensure that release of materials from the removal of low head dams meets water quality requirements, DEQ must evaluate the potential pollutants associated with this release on a case-by-case basis to determine compliance with general surface water quality criteria (IDAPA 58.01.02.200); numeric toxics criteria for aquatic life and human health (IDAPA 58.01.02.210); and use specific criteria for aquatic life (IDAPA 58.01.02.250), recreation (IDAPA 58.01.02.251), and water supply uses (IDAPA 58.01.02.252).

3.2 NWPs partially denied

The following activities have the potential to disturb significant areas and could disturb a significant fraction of entire Assessment Units, causing permanent and significant impairment of designated and existing beneficial uses. The conditions associated with the NWP, regional conditions, and the conditions associated with this certification are not sufficient to provide DEQ with assurance that projects of this magnitude would not result in impairment of existing or

designated beneficial uses in all waters, and potentially increase degradation in high quality (Tier II) waters.

In order to meet the requirements of Idaho's antidegradation implementation procedures (IDAPA 58.01.02.052), ensure that beneficial uses are not impaired, and ensure compliance with general surface water quality criteria for sediment (IDAPA 58.01.02.200.08), DEQ must evaluate these projects on a case-by-case basis and provide individual certification where applicable.

3.2.1 NWPs 3, 13, and 14

The 2020 NWPs 3, 13, and 14 require preconstruction notification (PCN) for certain activities when it is necessary for the district engineer to review activities to ensure only minimal adverse environmental effects.

While the additional district engineer review is intended to ensure that activities will cause only minimal adverse environmental effects, it is not reasonable to expect that the district engineer review will consider the requirements of Idaho's antidegradation implementation procedures (IDAPA 58.01.02.052) when making their determination. Consequently, DEQ cannot certify that activities requiring PCN under these NWPs would not cause degradation of water quality, and therefore cannot certify that these activities would meet Idaho's antidegradation implementation procedures (IDAPA 58.01.02.052).

Therefore, DEQ is denying certification for the following activities that require PCN under the proposed 2020 NWPs:

NWP 3 – Maintenance

Activities Denied Certification

- Activities authorized by paragraph (b) of NWP 3

NWP 13 – Bank Stabilization

Activities Denied Certification:

- activities involving discharge into special aquatic sites;
- activities in excess of 500 linear feet;
- activities that involve discharge of greater than one cubic yard per running foot measured along the length of the treated bank below the plane of the ordinary high water mark

NWP 14 – Linear Transportation Projects

Activities Denied Certification:

- activities resulting in the loss of waters of the United States in excess of 1/10 acre;
- discharge in a special aquatic site, including wetlands

3.2.2 NWPs 12, C, and D

The 2017 NWP 12 included activities proposed to be permitted under the 2020 NWPs C and D.

The 2017 NWP 12 required PCN for activities that, among other thresholds, involved mechanized clearing in forested wetlands, exceeded 500 linear feet, or that resulted in loss of greater than 1/10 acre of waters of the United States. The 2020 NWP proposes removal of these thresholds for PCN, and does not require additional review from the ACOE district engineer to ensure only minimal adverse environmental effects.

Without the requirement for PCN and additional review from the district engineer, DEQ cannot certify that these activities will not result in degradation. Therefore, DEQ is denying certification for the following activities:

NWP 12 – Oil or Natural Gas Pipeline Activities

Activities Denied Certification:

- activities that involve mechanized clearing of a wooded wetland;
- oil or natural gas pipelines in waters of the United States that exceed 500 linear feet or that run adjacent to a water body for greater than 500 linear feet;
- activities where discharge will result in loss of greater than 1/10-acre, as determined by ACOE, of waters of the United States

NWP C – Electric Utility Line and Telecommunications Activities

Activities Denied Certification:

- activities that involve mechanized clearing of a wooded wetland;
- electric utility line and telecommunications activities in waters of the United States that exceed 500 linear feet;
- activities where discharge will result in loss of greater than 1/10-acre, as determined by ACOE, of waters of the United States

NWP D – Utility Line Activities for Water and Other Substances

Activities Denied Certification:

- activities that involve mechanized clearing of a wooded wetland;
- utility line activities in waters of the United States that exceed 500 linear feet;
- activities where discharge will result in loss of greater than 1/10-acre, as determined by ACOE, of waters of the United States

3.2.3 NWPs 21, 29, 39, 40, 42, 43, 44, 50, 51, 52, and E

The 2017 NWPs for the following activities had a 300 linear foot limit for losses of stream bed. The 2020 NWP proposes removal of the 300 linear foot limit for losses of stream bed and instead rely solely on the ½ acre limit.

The median bankfull width measured from 48 wadeable streams monitored in 2010 as part of DEQ's Beneficial Use reconnaissance Program (BURP) was 19.7 feet. A loss of ½ acre at this stream width would correspond to 1,105 linear feet of loss, or the equivalent of 0.2 miles of stream. DEQ cannot certify that losses of this magnitude of stream bed, or that losses of stream

bed based solely on the ½ acre limit, would not result in permanent degradation. Therefore, DEQ is denying certification for the following activities that exceed the 300 linear foot limit previously imposed by the 2017 NWP:

NWP 21 – Surface Coal Mining Activities

Activities Denied Certification:

- activities resulting in loss in excess of 300 linear feet of streambed
- activities resulting in loss in excess of ½ acre of jurisdictional wetlands

NWP 29 – Residential Developments

Activities Denied Certification:

- activities resulting in loss in excess of 300 linear feet of streambed
- activities resulting in loss in excess of ½ acre of jurisdictional wetlands

NWP 39 – Commercial and Institutional Developments

Activities Denied Certification:

- activities resulting in loss in excess of 300 linear feet of streambed
- activities resulting in loss in excess of ½ acre of jurisdictional wetlands

NWP 40 – Agricultural Activities

Activities Denied Certification:

- activities resulting in loss in excess of 300 linear feet of streambed
- activities resulting in loss in excess of ½ acre of jurisdictional wetlands

NWP 42 – Recreational Facilities

Activities Denied Certification:

- activities resulting in loss in excess of 300 linear feet of streambed
- activities resulting in loss in excess of ½ acre of jurisdictional wetlands

NWP 43 – Stormwater Management Facilities

Activities Denied Certification:

- activities resulting in loss in excess of 300 linear feet of streambed
- activities resulting in loss in excess of ½ acre of jurisdictional wetlands

NWP 44 – Mining Activities

Activities Denied Certification:

- activities resulting in loss in excess of 300 linear feet of streambed
- activities resulting in loss in excess of ½ acre of jurisdictional wetlands

NWP 50 – Underground Coal Mining Activities

Activities Denied Certification:

- activities resulting in loss in excess of 300 linear feet of streambed
- activities resulting in loss in excess of ½ acre of jurisdictional wetlands

NWP 51 – Land Based Renewable Energy Generation Facilities

Activities Denied Certification:

- activities resulting in loss in excess of 300 linear feet of streambed
- activities resulting in loss in excess of ½ acre of jurisdictional wetlands

NWP 52 – Water-Based Renewable Energy Generation Pilot Projects

Activities Denied Certification:

- activities resulting in loss in excess of 300 linear feet of streambed
- activities resulting in loss in excess of ½ acre of jurisdictional wetlands

NWP E – Water Reclamation and Reuse Facilities

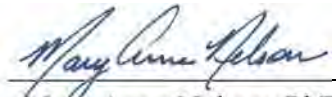
Activities Denied Certification:

- activities resulting in loss in excess of 300 linear feet of streambed
- activities resulting in loss in excess of ½ acre of jurisdictional wetlands

4 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 Jason Pappani, State Office IDEQ, at (208) 373-0515 or via email at jason.pappani@deq.idaho.gov.



Mary Anne Nelson, PhD
Surface and Wastewater Division
Administrator

STATE OF IDAHO
DEPARTMENT OF
ENVIRONMENTAL QUALITY

1410 N Hilton Street, Boise, ID 83706
(208) 373-0502

Brad Little, Governor
Jess Byrne, Director

December 4, 2020

Kelly J. Urbanek, Chief
U.S. ACOE Regulatory Division
Walla Walla District
720 East Park Boulevard, Suite 245
Boise, Idaho 83712-7757

Subject: Final §401 Water Quality Certification for 2020 Nationwide Permits in Idaho

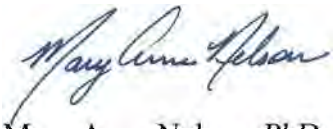
Dear Ms. Urbanek:

Enclosed please find the Idaho Department of Environmental Quality (DEQ) final water quality certification for the 2020 Nationwide Permits in Idaho. DEQ offered a 21-day public comment period, beginning on November 2, 2020, and ending on November 23, 2020.

DEQ received a single comment letter. After review of the comments received, minor modifications were made to the final certification in order to provide additional clarity.

If you have any questions or concerns regarding this certification, please contact Jason Pappani at (208) 373-0515 or via email at jason.pappani@deq.idaho.gov.

Sincerely,



Mary Anne Nelson, PhD
Surface and Wastewater Division Administrator

MAN:JP:lf

cc: Jason Pappani, DEQ State Office
DEQ Regional Administrators
James Joyner, ACOE Walla Walla District
Brent King, Idaho Attorney General's Office

Idaho Department of Environmental Quality

Final §401 Water Quality Certification

December 4, 2020

2020 U.S. Army Corps of Engineers §404 Nationwide Permits (NWPs)

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 activities receiving Section 404 dredge and fill permits and issue water quality certification decisions.

Based upon its review of the proposed 2020 Nationwide Permits published in the Federal Register on September 15, 2020, DEQ certifies that if the permittee complies with the terms and conditions imposed by the permits, including the Regional Conditions set forth by the Army Corps of Engineers (ACOE), along with the conditions set forth in this water quality certification, then activities will comply with the applicable water quality 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, including without limitation, the approval from the owner of a private water conveyance system, if one is required, to use the system in connection with the permitted activities.

1 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).

1.1 Pollutants of Concern

The primary pollutant of concern, for projects permitted under the 2020 NWPs administered by the ACOE, is sediment. In locations where heavy metals are present due to mining activities, or where high concentrations of nutrients may be associated with sediments, additional considerations may be necessary. If the project reduces riparian vegetation, then temperature (thermal loading) may also be of concern.

The procedures outlined in the Sediment Evaluation Framework for the Pacific Northwest[1] may be applied to assess and characterize sediment to determine the suitability of dredged material for unconfined aquatic placement, to determine the suitability of post dredge surfaces, and to predict effects on water quality during dredging (See Section 2.4 for more details).

As part of the Section 401 water quality certification, DEQ is requiring the applicant to comply with various conditions to protect water quality and to meet Idaho WQS, including the criteria applicable to sediment.

1.2 Receiving Water Body Level of Protection

The ACOE NWPs authorize construction activities in waters of the United States. In Idaho, jurisdictional waters of the state can potentially receive discharges either directly or indirectly from activities authorized under the NWPs. DEQ applies a water body by water body approach to determine the level of antidegradation protection a water body will receive. (IDAPA 58.01.02.052.05).

All waters in Idaho that receive discharges from activities authorized under a NWP will receive, at minimum, Tier I antidegradation protection because Idaho's Tier I antidegradation policy applies to all state waters (IDAPA 58.01.02.052.01). Water bodies that fully support their aquatic life or recreational uses are considered *high quality waters* and will receive Tier II antidegradation protection (IDAPA 58.01.02.051.02). Because of the statewide applicability, the antidegradation review will assess whether the NWP permit complies with both Tier I and Tier II antidegradation provisions (IDAPA 58.01.02.052.03).

Although Idaho does not currently have any Tier III designated outstanding resource waters (ORWs), it is possible for a water body to be designated as an ORW during the life of the NWPs.

[1] Northwest Regional Sediment Evaluation Team (RSET). 2018. Sediment Evaluation Framework for the Pacific Northwest. *Prepared by* the RSET Agencies, May 2018, 183 pp plus appendices.

Because of this potential, the antidegradation review also assesses whether the permit complies with the outstanding resource water requirements of Idaho's antidegradation policy (IDAPA 58.01.02.051.03).

To determine the support status of the receiving water body, the most recent EPA-approved Integrated Report, available on Idaho DEQ's website, is to be used: http://www.deq.idaho.gov/water-quality/surface-water/monitoring-assessment/integrated-report/. (IDAPA 58.01.02.052.05).

High quality waters are identified in Categories 1 and 2 of the Integrated Report. If a water body is in either Category 1 or 2, it is a Tier II water body.

Unassessed waters are identified in Category 3 of DEQ's Integrated Report. These waters require a case by case determination to be made by DEQ based on available information at the time of the application for permit coverage (IDAPA 58.01.02.052.05.b). For activities occurring on unassessed waters under this certification, DEQ has determined that complying with the conditions of the NWP, the regional conditions, and this certification will ensure the provisions of IDAPA 58.01.02.052 are met.

Impaired waters are identified in Categories 4 and 5 of the Integrated Report. Category 4(a) contains impaired waters for which a TMDL has been approved by EPA. Category 4(b) contains impaired waters for which controls other than a TMDL have been approved by EPA. Category 5 contains waters which have been identified as "impaired", for which a TMDL is needed. These waters are Tier I waters, for the use which is impaired. With the exception, if the aquatic life uses are impaired for any of these three pollutants—dissolved oxygen, pH, or temperature—and the biological or aquatic habitat parameters show a healthy, balanced biological community, then the water body shall receive Tier II protection, in addition to Tier I protection, for aquatic life uses (IDAPA 58.01.02.052.05.c.i).

DEQ's webpage also has a link to the state's map-based Integrated Report which presents information from the Integrated Report in a searchable, map-based format: http://www.deq.idaho.gov/assistance-resources/maps-data/.
Water bodies can be in multiple categories for different causes. If assistance is needed in using these tools, or if additional information/clarification regarding the support status of the receiving water body is desired, please feel free to contact your nearest DEQ regional office or the State Office (Table 1).

Table 1. Idaho DEQ Regional and State Office Contacts

Regional Office	*Address*	*Phone Number*	*Email*
Boise	1445 N. Orchard Rd., Boise 83706	208-373-0550	kati.carberry@deq.idaho.gov
Coeur d'Alene	2110 Ironwood Parkway, Coeur d'Alene 83814	208-769-1422	chantilly.higbee@deq.idaho.gov
Idaho Falls	900 N. Skyline, Suite B., Idaho Falls 83402	208-528-2650	troy.saffle@deq.idaho.gov
Lewiston	1118 "F" St., Lewiston 83501	208-799-4370	sujata.connell@deq.idaho.gov
Pocatello	444 Hospital Way, #300 Pocatello 83201	208-236-6160	matthew.schenk@deq.idaho.gov
Twin Falls	650 Addison Ave. W., Suite 110, Twin Falls 83301	208-736-2190	balthasar.buhidar@deq.idaho.gov
State Office	1410 N. Hilton Rd., Boise 83706	208-373-0502	jason.pappani@deq.idaho.gov

1.3 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 uses and the level of water quality necessary to protect existing uses shall be maintained and protected (IDAPA 58.01.02.051.01; 052.01 and 04). The numeric and narrative criteria in the WQS are set at levels that ensure protection of existing and designated beneficial uses.

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 (IDAPA 58.01.02.055.02). Once a TMDL is completed, discharges of causative pollutants shall be consistent with the allocations in the TMDL (IDAPA 58.01.02.055.05). Prior to the completion of a TMDL, the WQS require the application of the antidegradation policy and implementation provisions to maintain and protect beneficial uses (IDAPA 58.01.02.055.04).

The general (non-numeric) effluent limitations in the NWPs and associated Regional Conditions for the ACOE Walla Walla District address best management practices (BMPs) aimed at minimizing impacts to the aquatic environment, especially sediment and turbidity impacts including: vegetation protection and restoration, de-watering requirements, erosion and sediment controls, soil stabilization requirements, pollution prevention measures, prohibited discharges, and wildlife considerations. Although the NWPs do not contain specific (numeric) effluent limitations for sediment or turbidity, the conditions identified in the permits and in this water quality certification will ensure compliance with DEQ's water quality standards, including the narrative sediment criteria (IDAPA 58.01.02.200.08) and DEQ's turbidity criteria (IDAPA 58.01.02.250.02.e).

In order to ensure compliance with Idaho WQS, DEQ has included a condition requiring the permittee(s) to comply with Idaho's numeric turbidity criteria, developed to protect aquatic life

uses. The criterion states, "Turbidity shall not exceed background turbidity by more than 50 nephelometric turbidity units (NTU)[2] instantaneously or more than 25 NTU for more than 10 consecutive days" (IDAPA 58.01.02.250.02.e). DEQ is requiring turbidity monitoring when project activities result in a discharge to waters of the United States that causes a visible sediment plume (IDAPA 58.01.02.054.01) (See Section 2.5 for more details).

If an approved TMDL exists for a receiving water body that requires a load reduction for a pollutant of concern, then the project must be consistent with the provisions of that TMDL (IDAPA 58.01.02.055.05).
For authorized activities requiring a pre-construction notification (PCN), the Corps will have the opportunity to evaluate the NWP activities on a case by case basis to ensure that the activity will not cause more than a minimal adverse environmental effect, individually and cumulatively. The Corps has agreed to forward the verification letters to the appropriate DEQ regional office (Table 1) for all authorized activities including the NWP activities that require a PCN. This will better inform DEQ of the authorized activities that are occurring throughout the state and determine if additional conditions will need to be implemented when the ACOE reissues the NWPs.

1.3.1 DEQ's Determination

DEQ concludes that, given the nature of the activities authorized by the 2020 NWPs, such activities will comply with Idaho's Tier I requirements under IDAPA 58.01.02.051.01 and 58.01.02.052.07, provided the permitted activities are carried out in compliance with the limitations and associated requirements of the 2020 NWPs, Regional Conditions, and conditions set forth in this water quality certification.

1.4 Protection of High-Quality Waters (Tier II Protection)

Water bodies that fully support their beneficial uses are recognized as high-quality waters and will be provided Tier II protection in addition to Tier I protection (IDAPA 58.01.02.051.02; 58.01.02.052.05.a). Water quality parameters applicable to existing or designated beneficial uses must be maintained and protected under Tier II, unless a lowering of water quality is deemed necessary to accommodate important economic or social development (IDAPA 58.01.02.051.02; 58.01.02.052.08).

The ACOE does not authorize projects with more than minimal individual and cumulative impacts on the aquatic environment under a NWP (33 U.S.C.A. § 1344(e)). As required by the National Environmental Policy Act (NEPA) the Corps has analyzed the individual and cumulative effects for the NWP activities. DEQ recognizes that short term changes in water quality may occur with respect to sediment as a result of the authorized activities, but has determined that adherence to the terms and conditions imposed by the permits, including the Regional Conditions set forth by the Army Corps of Engineers (ACOE or Corps), along with the conditions set forth in this water quality certification will ensure that there are no long-term adverse changes to water quality or beneficial use support as a result of any activity authorized under this certification (IDAPA 58.01.02.052.03). As a general principle, DEQ believes degradation of water quality should be viewed in terms of permanent or long-term adverse

[2] *NTU is a unit of measure of the concentration of suspended particles in the water (turbidity). It is determined by shining a light through a sample and measuring the incident light scattered at right angles from the sample.*

changes. Short-term or temporary reductions in water quality, if reasonable measures are taken to minimize them (such as the certification conditions in Section 2), may occur without triggering a Tier II analysis (IDAPA 58.01.02.052.03; 080.02).

To ensure proposed regulated activities will not cause more than minimal individual and cumulative impacts on the aquatic environment, certain NWPs require project proponents to notify district engineers (in the form of a PCN) of their proposed activities prior to conducting regulated activities. This level of review gives the district engineer the opportunity to evaluate activities on a case by case basis to determine whether additional conditions or mitigation requirements are warranted to ensure that the proposed activity results in no more than the minimal individual and cumulative impacts on the aquatic environment.

DEQ has denied certification for NWP 16, NWP 23, and NWP 53 (see Section 3.1); and for certain activities associated with NWP 3, NWP 12, NWP 13, NWP 14, NWP 21, NWP 29, NWP 39, NWP 40, NWP 42, NWP 43, NWP 44, NWP 50, NWP 51, NWP 52, NWP C, NWP D, and NWP E (see Section 3.2). Projects seeking coverage under these NWPs will need to request individual certification from DEQ. DEQ will consider any additional conditions or denial of certification if necessary to ensure no lowering of water quality occurs for any of these projects proposed on Tier II water.

Additionally, if an authorized project causes a visible sediment plume then turbidity monitoring is required (see Section 2.5 for more details).

1.4.1 DEQ's Determination

DEQ concludes that the activities authorized by the 2020 NWPs and this certification will comply with Idaho's Tier II requirements under IDAPA 58.01.02.051.02 and 58.01.02.052.08 providing permitted activities are carried out in compliance with the limitations and associated requirements of the 2020 NWPs, Regional Conditions, and conditions of this water quality certification.

1.5 Protection of Outstanding Resource Waters (Tier III Protection)

Idaho's antidegradation policy requires that the quality of outstanding resource waters (ORWs) be maintained and protected from the impacts of point and nonpoint source activities (IDAPA 58.01.02.051.03). No water bodies in Idaho have been designated as ORWs to date. Because it is possible waters may become designated during the term of the 2020 NWPs, DEQ has evaluated whether the NWPs comply with the ORW antidegradation provision.

DEQ has denied certification for any activities on any Outstanding Resource Water (ORW) (see Section 3) and is requiring that any activities proposed on an ORW apply for individual certification (see Section 2.3).

1.5.1 DEQ's Determination

DEQ concludes that the activities authorized by the 2020 NWPs and this certification will comply with Idaho's Tier III requirements under IDAPA 58.01.02.051.03 providing permitted activities are carried out in compliance with the limitations and associated requirements of the 2020 NWPs, Regional Conditions, and conditions of this water quality certification.

2 Conditions Necessary to Ensure Compliance with Water Quality Standards or Other Appropriate Water Quality Requirements of State Law

For all activities covered under this certification, the following conditions are necessary to ensure that permitted projects comply with water quality requirements.

2.1 Design, Implementation, and Maintenance of Appropriate Best Management Practices

Best Management Practices (BMPs) must be designed, implemented, and maintained by the permittee to fully protect and maintain the beneficial uses and ambient water quality of waters of the state and to prevent exceedances of WQS (IDAPA 58.01.02.350.01.a).

BMPs must be selected and properly installed. Proper installation and operation of BMPs are required to ensure the provisions of IDAPA 58.01.02.052 are met. In order to ensure that BMPs are operating properly and to demonstrate that degradation has not occurred, the permittee must monitor and evaluate BMP effectiveness daily during project activities to assure that water quality standards are being met.

Approved BMPs for specific activities (mining, forestry, stream channel alteration, etc.) are codified in IDAPA 58.01.02.350. Additionally, DEQ provides a catalog of storm water best management practices, available at: http://www.deq.idaho.gov/media/60184297/stormwater-bmp-catalog.pdf. This catalog presents a variety of BMPs that can be used to control erosion and sediment during and after construction. Other sources of information are also available and may be used for selecting project appropriate BMPs.

This condition is necessary meet the following water quality requirements:

Control of erosion, sediment, and turbidity to maintain beneficial use support and compliance with the following water quality standards:

- General Surface Water Criteria for Sediment (IDAPA 58.01.02.200.08)
- Numeric Turbidity Criteria for Aquatic Life (IDAPA 58.01.02.250.02.e)
- Numeric turbidity criteria for protection of domestic water supply (IDAPA 58.01.02.252.01.b)
- Point source wastewater treatment requirements (IDAPA 58.01.02.401.02)

2.2 TMDL Compliance

If there is an approved or established TMDL, then the permittee must comply with the established loads in the TMDL. Approved TMDLs can be found on DEQ's website (https://www.deq.idaho.gov/water-quality/surface-water/tmdls/table-of-sbas-tmdls/) or by contacting the appropriate regional office contact (Table 1).

This condition is necessary to meet the following water quality requirements:

Ensure projects are consistent with waste load and load allocations established in approved TMDLs (IDAPA 58.01.02.055.04 and .05).

2.3 Outstanding Resource Waters

If waters become designated as ORWs during the term of the NWPs, a permittee proposing a project on an ORW must contact the appropriate DEQ regional office and apply for individual certification.

This condition is necessary to meet the following water quality requirements:

Ensure there is no lowering of water quality in any ORW as required by the Idaho Antidegradation Policy (IDAPA 58.01.02.051.03).

2.4 Fill Material

Material subject to suspension, including suspended dredge material, shall be free of easily suspended fine material. The fill material to be placed in waters of the United States shall be clean material only. If dredged material is proposed to be used as fill material and there is a possibility the material may be contaminated, then the permittee must apply the procedures in the *Sediment Evaluation Framework for the Pacific Northwest* (RSET, 2018) to assess and characterize sediment to determine the suitability of dredged material for unconfined-aquatic placement; determine the suitability of post dredge surfaces; and to predict effects on water quality during dredging.

This condition is necessary to meet the following water quality requirements:

Prevent suspension of fine sediment and turbidity in order to provide beneficial use support and compliance with the following water quality standards:

- General Surface Water Criteria for Sediment (IDAPA 58.01.02.200.08)
- Numeric Turbidity Criteria for Aquatic Life (IDAPA 58.01.02.250.02.e)
- Numeric turbidity criteria for protection of domestic water supply (IDAPA 58.01.02.252.01.b)
- Point source wastewater treatment requirements (IDAPA 58.01.02.401.02)

Prevent suspension of hazardous, toxic, or deleterious materials or other pollutants that may be associated with fill material in order to ensure beneficial use support and compliance with the following water quality standards:

- General Surface Water Criteria for hazardous materials (IDAPA 58.01.02.200.01), toxic substances (IDAPA 58.01.02.200.02), deleterious materials (IDAPA 58.01.02.200.03), excess nutrients (IDAPA 58.01.02.200.06), or oxygen demanding materials (IDAPA 58.01.02.200.09)
- Numeric toxics criteria for aquatic life and human health (IDAPA 58.01.02.210)

2.5 Turbidity

If no visible sediment plume is present, it is reasonable to assume that there is no potential violation of the water quality criteria for turbidity (IDAPA 58.01.02.250.02.e). Therefore, turbidity monitoring is only required when activities cause a visible sediment plume.

A properly and regularly calibrated turbidimeter is required for measurements analyzed in the field, but grab samples may be collected and taken to a laboratory for analysis. When monitoring is required a sample must be taken at an undisturbed area immediately up-current from in-water disturbance or discharge to establish background turbidity levels. Background turbidity, latitude/longitude, date, and time must be recorded prior to monitoring down-current. Then a sample must be collected immediately down-current from the in-water disturbance or point of discharge and within any visible sediment plume. The turbidity, latitude/longitude, date, and time must be recorded for each sample. The downstream sample must be taken immediately following the upstream sample in order to obtain meaningful and representative results.

Results from the down-current sampling point must be compared to the up-current or background level to determine whether project activities are causing an exceedance of state WQS. If the downstream turbidity is 50 NTUs or more greater than the upstream turbidity, then the project is causing an exceedance of the WQS (IDAPA 58.01.02.250.02.e).
Any exceedance of the turbidity standard must be reported to the appropriate DEQ regional office (Table 1) within 24 hours.

The following steps should be followed to ensure compliance with the turbidity standard:

1. If a visible plume is observed, collect turbidity measurements at 1) an upstream location; and, 2) from within the plume, and compare the results to Idaho's instantaneous numeric turbidity criterion (50 NTU over background).
2. If turbidity in the plume is less than 50 NTU instantaneously over the background turbidity continue monitoring as long as the plume is visible. If turbidity exceeds background turbidity by more than 50 NTU instantaneously then stop all earth disturbing construction activities immediately and proceed to Step 3. If turbidity exceeds background turbidity by more than 25 NTU, or if a visible plume is observed for more than 10 consecutive days, then stop all earth disturbing construction activities and proceed to Step 3.
3. Notify the appropriate DEQ regional office within 24 hours of any turbidity criteria exceedance. Take action to address the cause of the exceedance. That may include inspecting the condition of project BMPs. If the BMPs are functioning to their fullest capability, then the permittee must modify project activities and/or BMPs to correct the exceedance.
4. Earth disturbing activities may continue once turbidity readings return to within 50 NTU over background instantaneously; or, if turbidity has exceeded 25 NTU over background for more than ten consecutive days, once turbidity readings have no longer exceeded 25 NTU over background for at least 24 consecutive hours.

Copies of daily logs for turbidity monitoring must be available to DEQ upon request. The report must describe all exceedances and subsequent actions taken, including the effectiveness of the action.

This condition is necessary to meet the following water quality requirements:

Ensure that activities do not impair beneficial uses, and ensure and document compliance with the following water quality standards:

- General Surface Water Criteria for Sediment (IDAPA 58.01.02.200.08)
- Numeric Turbidity Criteria for Aquatic Life (IDAPA 58.01.02.250.02.e)
- Numeric turbidity criteria for protection of domestic water supply (IDAPA 58.01.02.252.01.b)

2.6 Mixing Zones

No mixing zones are authorized through this certification. If a mixing zone, or alternatively, a point of compliance, is desired, the permittee must apply for an individual certification and must contact the appropriate DEQ regional office (Table 1) to request authorization for a mixing zone.

This condition is necessary to meet the following water quality requirements:

Ensure any mixing zone is properly authorized in accordance with the Idaho Mixing Zone Policy (IDAPA 58.01.02.060).

2.7 Culverts

To prevent road surface and culvert bedding material from entering a stream, culvert crossings must include best management practices to retain road base and culvert bedding material. For perennial waters, the permittee should consider the Idaho Stream Channel Alterations rules (IDAPA 37.03.07). Another source of BMPs for culvert installation can be found in the Idaho Forest Practices Act (IDAPA 20.20.01). Examples of best management practices include, but are not limited to: parapets, wing walls, inlet and outlet rock armoring, compaction, suitable bedding material, anti-seep barriers such as bentonite clay, or other acceptable roadway retention systems.

This condition is necessary to meet the following water quality requirements:

Control of erosion, sediment, and turbidity to provide beneficial use support and compliance with the following water quality standards:

- General Surface Water Criteria for Sediment (IDAPA 58.01.02.200.08)
- Numeric Turbidity Criteria for Aquatic Life (IDAPA 58.01.02.250.02.e)
- Numeric turbidity criteria for protection of domestic water supply (IDAPA 58.01.02.252.01.b)

2.8 Wood Preservatives

DEQ's *Guidance for the Use of Wood Preservatives and Preserved Wood Products In or Around Aquatic Environments* must be considered when using treated wood materials in the aquatic environment. Within this guidance document DEQ references the *Best Management Practices*

for the Use of Treated Wood in Aquatic and Wetland Environments[3]. This document provides recommended guidelines for the production and installation of treated wood products destined for use in sensitive environments.

This condition is necessary to meet the following water quality requirements:

Ensure that toxic chemicals are not introduced into waters and to ensure compliance with the following water quality standards:

- General Surface Water Criteria for hazardous materials (IDAPA 58.01.02.200.01), toxic substances (IDAPA 58.01.02.200.02), and deleterious materials (IDAPA 58.01.02.200.03)
- Numeric toxics criteria for aquatic life and human health (IDAPA 58.01.02.210)

2.9 Reporting of Discharges Containing Hazardous Materials or Deleterious Materials

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 appropriate DEQ regional office in Table 2 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

Table 2. Idaho DEQ regional contacts for reporting discharge or spill of hazardous or deleterious materials.

Regional Office	*Toll Free Phone Number*	*Phone Number*
Boise	888-800-3480	208-373-0550
Coeur d'Alene	877-370-0017	208-769-1422
Idaho Falls	800-232-4635	208-528-2650
Lewiston	877-541-3304	208-799-4370
Pocatello	888-655-6160	208-236-6160
Twin Falls	800-270-1663	208-736-2190

[3] Western Wood Preservers Institute, Wood Preservation Canada, Southern Pressure Treaters' Association, and Southern Forest Products Association. 2011. "Best Management Practices: For the Use of Treated Wood in Aquatic and Wetland Environments" Vancouver, WA: Western Wood Preservers Institute.

This condition is necessary to meet the following water quality requirements:

Ensure compliance with the following water quality standards:

- Hazardous Material Spills (IDAPA 58.01.02.850)
- Petroleum release reporting, investigation, and confirmation (IDAPA 58.01.02.851)
- Petroleum release response and corrective action (IDAPA 58.01.02.852)

2.10 Other Conditions

This certification is conditioned upon the requirement that if there are material modifications of the NWPs or the permitted activities—including without limitation, significant changes from the draft NWPs to final NWPs, or significant changes to the draft Regional Conditions, then DEQ must re-evaluate the certification to determine compliance with Idaho WQS and to provide additional certification pursuant to Section 401.

This condition is necessary to ensure that DEQ can evaluate any material modification to ensure it meets water quality requirements and complies with the Idaho antidegradation policy (IDAPA 58.01.02.051) and its implementation (IDAPA 58.01.02.052), general surface water quality criteria (200), numeric toxics criteria for aquatic life and human health (IDAPA 58.01.02.210), numeric criteria for aquatic life (IDAPA 58.01.02.250), recreation (IDAPA 58.01.02.251), and water supply uses (IDAPA 58.01.02.252).

3 Projects for Which Certification Is Denied

DEQ cannot certify that the following activities will comply with water quality requirements, including State WQS and other appropriate requirements of state law, and is therefore denying certification for the activities listed below.

For activities for which certification has been denied, the applicant will be required to request an individual certification before the activity can be conducted. Individual certification requests will provide DEQ with the opportunity to review project details and determine if additional conditions are necessary to ensure that water quality requirements will be met.

Upon review and evaluation of individual certification requests, DEQ may 1) certify without condition, 2) provide individual certification with conditions necessary to ensure water quality requirements will be met, or 3) deny certification for projects that will not meet water quality requirements.

3.1 NWPs denied

DEQ denies certification for all activities proposed to occur on waters designated as ORWs during the term of the permit. This denial is necessary to ensure compliance with the water quality requirements of Idaho's antidegradation policy (IDAPA 58.01.02.051.03) and implementation procedures (IDAPA 58.01.02.052.09.g).

In addition, the following NWPs are denied certification for all Idaho waters. Projects seeking coverage under these NWPs must request individual certification from DEQ.

NWP 16 - Return Water from Upland Contained Disposal Areas

Basis for denial:

Return water from upland disposal areas has the potential to contribute turbidity, sediment, and other toxic and non-toxic pollutants to receiving waters.

To ensure that discharge from upland contained disposal areas meets water quality requirements, DEQ must evaluate the quality of the return water and evaluate the potential pollutants associated with return water on a case-by-case basis to determine compliance with general surface water quality criteria (IDAPA 58.01.02.200); numeric toxics criteria for aquatic life and human health (IDAPA 58.01.02.210); and use specific criteria for aquatic life (IDAPA 58.01.02.250), recreation (IDAPA 58.01.02.251), and water supply uses (IDAPA 58.01.02.252).

NWP 23 - Approved Categorical Exclusions

Basis for denial:

DEQ is unable to determine that meeting the requirements for categorical exclusion under the National Environmental Policy Act will meet state water quality requirements.

DEQ will evaluate categorically excluded activities on a case-by-case basis to determine compliance with general surface water quality criteria (IDAPA 58.01.02.200); numeric toxics criteria for aquatic life and human health (IDAPA 58.01.02.210); and use specific criteria for aquatic life (IDAPA 58.01.02.250), recreation (IDAPA 58.01.02.251), and water supply uses (IDAPA 58.01.02.252).

NWP 53 – Removal of Low-Head Dams

Basis for denial:

Material released from the removal of low head dams has the potential to contribute turbidity, sediment, and other toxic and non-toxic pollutants to receiving waters.

In order to ensure that release of materials from the removal of low head dams meets water quality requirements, DEQ must evaluate the potential pollutants associated with this release on a case-by-case basis to determine compliance with general surface water quality criteria (IDAPA 58.01.02.200); numeric toxics criteria for aquatic life and human health (IDAPA 58.01.02.210); and use specific criteria for aquatic life (IDAPA 58.01.02.250), recreation (IDAPA 58.01.02.251), and water supply uses (IDAPA 58.01.02.252).

3.2 NWPs partially denied

The following activities have the potential to disturb significant areas and could disturb a significant fraction of entire Assessment Units, causing permanent and significant impairment of designated and existing beneficial uses. The conditions associated with the NWP, regional conditions, and the conditions associated with this certification are not sufficient to provide DEQ with assurance that projects of this magnitude would not result in impairment of existing or

designated beneficial uses in all waters, and potentially increase degradation in high quality (Tier II) waters.

In order to meet the requirements of Idaho's antidegradation implementation procedures (IDAPA 58.01.02.052), ensure that beneficial uses are not impaired, and ensure compliance with general surface water quality criteria for sediment (IDAPA 58.01.02.200.08), DEQ must evaluate these projects on a case-by-case basis and provide individual certification where applicable.

3.2.1 NWPs 3, 13, and 14

The 2020 NWPs 3, 13, and 14 require preconstruction notification (PCN) for certain activities when it is necessary for the district engineer to review activities to ensure only minimal adverse environmental effects.

While the additional district engineer review is intended to ensure that activities will cause only minimal adverse environmental effects, it is not reasonable to expect that the district engineer review will consider the requirements of Idaho's antidegradation implementation procedures (IDAPA 58.01.02.052) when making their determination. Consequently, DEQ cannot certify that activities requiring PCN under these NWPs would not cause degradation of water quality, and therefore cannot certify that these activities would meet Idaho's antidegradation implementation procedures (IDAPA 58.01.02.052).

Therefore, DEQ is denying certification for the following activities that require PCN under the proposed 2020 NWPs:

NWP 3 – Maintenance

Activities Denied Certification

- Activities authorized by paragraph (b) of NWP 3

NWP 13 – Bank Stabilization

Activities Denied Certification:

- activities involving discharge into special aquatic sites;
- activities in excess of 500 linear feet;
- activities that involve discharge of greater than one cubic yard per running foot measured along the length of the treated bank below the plane of the ordinary high water mark

NWP 14 – Linear Transportation Projects

Activities Denied Certification:

- activities resulting in the loss of waters of the United States in excess of 1/10 acre;
- discharge in a special aquatic site, including wetlands

3.2.2 NWPs 12, C, and D

The 2017 NWP 12 included activities proposed to be permitted under the 2020 NWPs C and D.

The 2017 NWP 12 required PCN for activities that, among other thresholds, involved mechanized clearing in forested wetlands, exceeded 500 linear feet, or that resulted in loss of greater than 1/10 acre of waters of the United States. The 2020 NWP proposes removal of these thresholds for PCN, and does not require additional review from the ACOE district engineer to ensure only minimal adverse environmental effects.

Without the requirement for PCN and additional review from the district engineer, DEQ cannot certify that these activities will not result in degradation. Therefore, DEQ is denying certification for the following activities:

NWP 12 – Oil or Natural Gas Pipeline Activities

Activities Denied Certification:

- activities that involve mechanized clearing of a wooded wetland;
- oil or natural gas pipelines in waters of the United States that exceed 500 linear feet or that run adjacent to a water body for greater than 500 linear feet;
- activities where discharge will result in loss of greater than 1/10-acre, as determined by ACOE, of waters of the United States

NWP C – Electric Utility Line and Telecommunications Activities

Activities Denied Certification:

- activities that involve mechanized clearing of a wooded wetland;
- electric utility line and telecommunications activities in waters of the United States that exceed 500 linear feet;
- activities where discharge will result in loss of greater than 1/10-acre, as determined by ACOE, of waters of the United States

NWP D – Utility Line Activities for Water and Other Substances

Activities Denied Certification:

- activities that involve mechanized clearing of a wooded wetland;
- utility line activities in waters of the United States that exceed 500 linear feet;
- activities where discharge will result in loss of greater than 1/10-acre, as determined by ACOE, of waters of the United States

3.2.3 NWPs 21, 29, 39, 40, 42, 43, 44, 50, 51, 52, and E

The 2017 NWPs for the following activities had a 300 linear foot limit for losses of stream bed. The 2020 NWP proposes removal of the 300 linear foot limit for losses of stream bed and instead rely solely on the ½ acre limit.

The median bankfull width measured from 48 wadeable streams monitored in 2010 as part of DEQ's Beneficial Use reconnaissance Program (BURP) was 19.7 feet. A loss of ½ acre at this stream width would correspond to 1,105 linear feet of loss, or the equivalent of 0.2 miles of stream. DEQ cannot certify that losses of this magnitude of stream bed, or that losses of stream

bed based solely on the ½ acre limit, would not result in permanent degradation. Therefore, DEQ is denying certification for the following activities that exceed the 300 linear foot limit previously imposed by the 2017 NWP:

NWP 21 – Surface Coal Mining Activities

Activities Denied Certification:

- activities resulting in loss in excess of 300 linear feet of streambed
- activities resulting in loss in excess of ½ acre of jurisdictional wetlands

NWP 29 – Residential Developments

Activities Denied Certification:

- activities resulting in loss in excess of 300 linear feet of streambed
- activities resulting in loss in excess of ½ acre of jurisdictional wetlands

NWP 39 – Commercial and Institutional Developments

Activities Denied Certification:

- activities resulting in loss in excess of 300 linear feet of streambed
- activities resulting in loss in excess of ½ acre of jurisdictional wetlands

NWP 40 – Agricultural Activities

Activities Denied Certification:

- activities resulting in loss in excess of 300 linear feet of streambed
- activities resulting in loss in excess of ½ acre of jurisdictional wetlands

NWP 42 – Recreational Facilities

Activities Denied Certification:

- activities resulting in loss in excess of 300 linear feet of streambed
- activities resulting in loss in excess of ½ acre of jurisdictional wetlands

NWP 43 – Stormwater Management Facilities

Activities Denied Certification:

- activities resulting in loss in excess of 300 linear feet of streambed
- activities resulting in loss in excess of ½ acre of jurisdictional wetlands

NWP 44 – Mining Activities

Activities Denied Certification:

- activities resulting in loss in excess of 300 linear feet of streambed
- activities resulting in loss in excess of ½ acre of jurisdictional wetlands

NWP 50 – Underground Coal Mining Activities

Activities Denied Certification:

- activities resulting in loss in excess of 300 linear feet of streambed
- activities resulting in loss in excess of ½ acre of jurisdictional wetlands

NWP 51 – Land Based Renewable Energy Generation Facilities

Activities Denied Certification:

- activities resulting in loss in excess of 300 linear feet of streambed
- activities resulting in loss in excess of ½ acre of jurisdictional wetlands

NWP 52 – Water-Based Renewable Energy Generation Pilot Projects

Activities Denied Certification:

- activities resulting in loss in excess of 300 linear feet of streambed
- activities resulting in loss in excess of ½ acre of jurisdictional wetlands

NWP E – Water Reclamation and Reuse Facilities

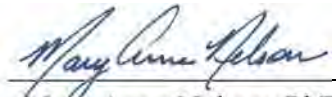
Activities Denied Certification:

- activities resulting in loss in excess of 300 linear feet of streambed
- activities resulting in loss in excess of ½ acre of jurisdictional wetlands

4 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 Jason Pappani, State Office IDEQ, at (208) 373-0515 or via email at jason.pappani@deq.idaho.gov.



Mary Anne Nelson, PhD
Surface and Wastewater Division
Administrator

City of Ketchum

ATTACHMENT C

MARSUPIAL PROPERTIES CHANNEL STABILIZATION PROJECT

N

INDEX OF SHEETS

SHEET NO.	DESCRIPTION
C1	TITLE SHEET
C2	SITE PLAN
C3	PROFILE & CROSS SECTIONS
C4	DETAILS
C5	DEWATERING/EROSION CONTROL PLAN
L1	REVEGETATION PLAN

DATUM

1. HORIZONTAL – NAD83 IDAHO STATE PLANES CENTRAL ZONE, US FT.
2. VERTICAL – NAVD88

SURVEY

TOPOGRAPHIC SURVEY BY QRS LLC 10-18-2023
IMAGERY IS FROM AERIAL DRONE FLIGHT BY QRS LLC 10-18-2023
TITLE SHEET IMAGERY IS BING IMAGERY 2023

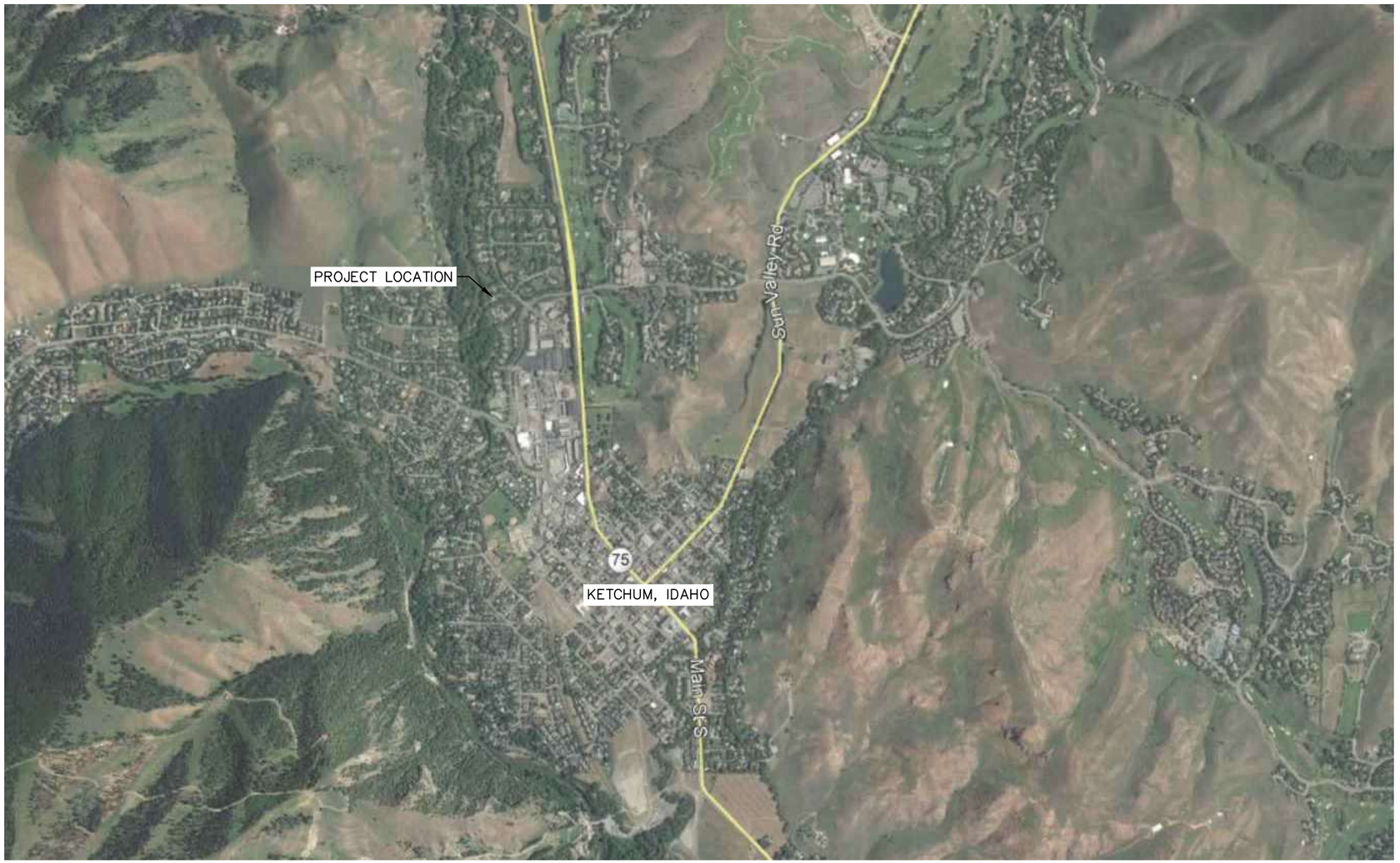
APPROXIMATE GPS SITE COORDINATES

LATITUDE: 43°41'32" N LONGITUDE: 114°22'22" W

DIRECTIONS TO SITE

BEGINNING IN KETCHUM, IDAHO, AT THE INTERSECTION OF MAIN ST. AND SUN VALLEY RD. HEAD NORTHWEST ON N. MAIN ST. FOR 0.9 MILES. TURN LEFT ONTO SADDLE ROAD AND PROCEED FOR 0.1 MILES. TURN RIGHT ONTO NORTHWOOD WAY AND PROCEED FOR APPROXIMATELY 350 FT. TO THE PROJECT LOCATION ON THE LEFT (411 NORTHWOOD WAY).

VICINITY MAP



Quadrant + River Structures

PROFESSIONAL ENGINEER REGISTERED 10969 STATE OF IDAHO NICHOLAS A. KRAUS
3-12-26

MARSUPIAL PROPERTIES STABILIZATION
TITLE SHEET
KETCHUM IDAHO

SCALE: N/A
PROJECT NO. 831-01

DESIGNED BY: AE/NK
DRAWN BY: AE/KD
CHECKED BY: NK
PLOT DATE: 3/12/2026

NO.	DATE	BY	REVISION
1	4/7/2024	KD	ADJACENT PROPERTIES COMMENTS
2	3/11/2026	KD	RESPONSE TO REVIEW COMMENTS

SHEET
C1

N

GRAPHIC SCALE

0 20 40

(IN FEET)
1 INCH = 20 FT.

▨ EMERGENCY PERMIT BANK REPAIR 2023
TOE OF RIVER
TOP BANK OF RIVER
PROPERTY LINE
MINOR CONTOUR LINE
MAJOR CONTOUR LINE
FW FLOODWAY
FP 100 YEAR FLOODPLAIN
ORDINARY HIGH WATER MARK

CONSTRUCTION NOTES

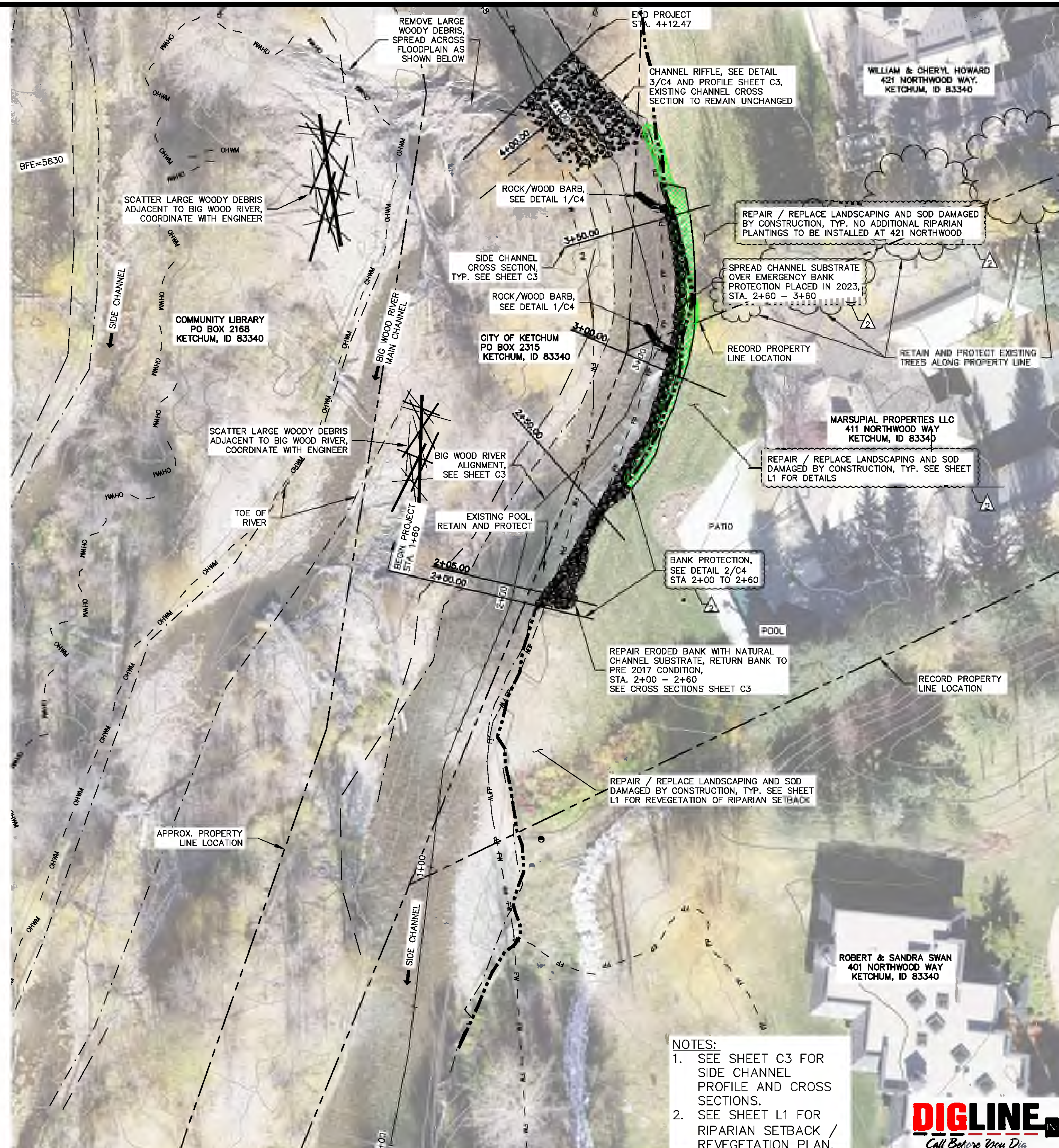
1. CONTRACTOR SHALL LOCATE ANY UTILITIES ON-SITE PRIOR TO CONSTRUCTION. CONTACT DIGLINE TO MARK OUT PRECISE LOCATION IN FIELD. ANY UTILITIES DAMAGED DURING CONSTRUCTION SHALL BE REPAIRED AT THE CONTRACTOR'S EXPENSE.
2. DIGLINE CONTACT 1-800-342-1585.
3. THE "OWNER" OF THE PROJECT, AS REFERENCED IN THESE SPECIFICATIONS IS MARSUPIAL PROPERTIES LLC..
4. UPON COMPLETION OF THE PROJECT, ALL AREAS USED BY CONTRACTOR SHALL BE PROPERLY GRADED TO DRAIN AND BLEND IN WITH THE SURROUNDING TERRAIN.
5. THE CONTRACTOR SHALL BE RESPONSIBLE FOR THE REPAIR OF ANY EXISTING ITEMS DAMAGED DURING CONSTRUCTION, INCLUDING FENCING, ROADS, GATES, PATHS, AND PROPERTY IMPROVEMENTS.
6. THE OWNER OR ENGINEER RESERVES THE RIGHT TO MAKE ADJUSTMENTS IN THE FIELD TO DIMENSIONS, STRUCTURE LOCATIONS, STRUCTURE DETAILS, AND ALL OTHER RELEVANT PRACTICES AS NEEDED TO PRESERVE DESIGN INTENT, HABITAT IN THE RIVER AND FLOODPLAIN, AND TO FIT DYNAMIC RIVER CONDITIONS.
7. THE CONTRACTOR SHALL ONLY REMOVE TREES AND SHRUBS THAT ARE ABSOLUTELY NECESSARY FOR THE EXECUTION OF THE WORK AND SHALL MAKE ALL EFFORTS TO MINIMIZE TREE REMOVAL. IN THE EVENT THAT A TREE OR SHRUB OUTSIDE THE IMMEDIATE WORK AREAS MUST BE REMOVED OR DAMAGED, THE CONTRACTOR SHALL OBTAIN PRIOR APPROVAL FROM THE OWNER.
8. ANY ORGANIC MATERIAL RESULTING FROM TREE OR BRUSH REMOVAL SHALL NOT BE USED FOR BACKFILL MATERIAL.
9. MINOR MODIFICATIONS ARE EXPECTED TO SUIT JOB SITE DIMENSIONS OR CONDITIONS. SUCH MODIFICATIONS SHALL BE INCLUDED AS PART OF THE WORK. THE OWNER, ENGINEER, AND APPROPRIATE REGULATORY AGENCIES WILL BE NOTIFIED OF AN OWNER-AUTHORIZED CHANGE RESULTING IN MORE THAN A 10% DESIGN CHANGE OF PROPOSED FOOTPRINT OR SIGNIFICANTLY AFFECTING THE INTENDED BENEFIT OR FUNCTION OF A PROJECT ELEMENT.
10. THE CONTRACTOR AGREES TO ASSUME SOLE AND COMPLETE RESPONSIBILITY FOR JOB SITE CONDITIONS DURING THE COURSE OF CONSTRUCTION OF THIS PROJECT, INCLUDING SAFETY OF ALL PERSONS AND PROPERTY, AND FURTHER AGREES THAT THIS REQUIREMENT SHALL APPLY CONTINUOUSLY AND NOT BE LIMITED TO NORMAL WORKING HOURS IN ACCORDANCE WITH THE PROVISIONS OUTLINED BY THE PROJECT CONTRACT AND SPECIFICATIONS.
11. IT IS THE RESPONSIBILITY OF THE CONTRACTOR AND THEIR SUBCONTRACTOR(S) TO EXAMINE THE PROJECT SITE PRIOR TO THE SUBMITTAL OF BID PROPOSALS. THE CONTRACTOR SHALL BECOME FAMILIAR WITH THE CONDITIONS UNDER WHICH THE WORK IS TO BE PERFORMED SUCH AS THE NATURE AND LOCATION OF THE WORK AND THE GENERAL AND LOCAL CONDITIONS, PARTICULARLY THOSE AFFECTING THE AVAILABILITY OF TRANSPORTATION; THE DISPOSAL, HANDLING, AND STORAGE OF MATERIALS; AVAILABILITY OF LABOR, WATER, ELECTRICITY, AND ROADS; THE UNCERTAINTIES OF WEATHER; THE CONDITIONS OF THE GROUND, SURFACE AND SUBSURFACE MATERIALS, AND GROUNDWATER; THE EQUIPMENT AND FACILITIES NEEDED FOR AND DURING THE PERFORMANCE OF THE WORK; AND THE COSTS THEREOF. ANY FAILURE BY THE CONTRACTOR AND SUBCONTRACTOR(S) TO ACQUAINT THEMSELVES WITH ALL THE AVAILABLE INFORMATION WILL NOT RELIEVE THE CONTRACTOR AND SUBCONTRACTOR(S) FROM RESPONSIBILITY FOR PROPERLY ESTIMATING THE DIFFICULTY AND COST OF SUCCESSFULLY PERFORMING THE WORK.
12. THE CONTRACTOR IS RESPONSIBLE FOR REVIEWING THE CONTRACT DOCUMENTS AND FOR ALL SUBMITTALS REQUIRED TO THE OWNER FOR REVIEW AND ACCEPTANCE.
13. CONTRACTOR SHALL FURNISH ALL MATERIALS, EQUIPMENT, AND LABOR NECESSARY TO COMPLETE ALL WORK AS INDICATED IN THE CONTRACT DOCUMENTS.
14. CONSTRUCTION HOURS SHALL BE WEEKDAYS BETWEEN 8:00 A.M. AND 6:00 P.M. UNLESS PRIOR APPROVAL IS RECEIVED FROM THE OWNER.
15. THE CONTRACTOR SHALL INSTALL ALL MATERIALS IN ACCORDANCE WITH MANUFACTURER'S RECOMMENDATIONS UNLESS SPECIFICALLY INDICATED OTHERWISE ON THE DRAWINGS OR WHERE LOCAL CODES OR REGULATIONS TAKE PRECEDENCE.
16. ALL WORK PERFORMED AND MATERIALS INSTALLED SHALL BE IN STRICT ACCORDANCE WITH ALL APPLICABLE CODES, REGULATIONS, AND ORDINANCES.
17. THE CONTRACTOR SHALL SUPERVISE AND DIRECT THE WORK USING THE BEST SKILLS AND ATTENTION. THE CONTRACTOR SHALL BE SOLELY RESPONSIBLE FOR ALL CONSTRUCTION MEANS, METHODS, TECHNIQUES, SEQUENCES, AND PROCEDURES FOR COORDINATING ALL PORTIONS OF THE WORK UNDER THIS CONTRACT.
18. THE CONTRACTOR SHALL KEEP THE JOB SITE CLEAN AND HAZARD FREE. CONTRACTOR SHALL DISPOSE OF ALL DIRT, DEBRIS, AND RUBBISH FOR THE DURATION OF THE WORK. UPON COMPLETION OF WORK, CONTRACTOR SHALL REMOVE ALL MATERIAL AND EQUIPMENT NOT SPECIFIED AS REMAINING ON THE PROPERTY.
19. NOTES AND DETAILS ON THE PLANS SHALL TAKE PRECEDENCE OVER GENERAL NOTES HEREIN.
20. DIMENSION CALLOUTS SHALL TAKE PRECEDENCE OVER SCALES SHOWN ON THE PLANS.
21. CONSTRUCTION STAGING AND REFUELING AREAS SHALL BE A MINIMUM OF 150 FT AWAY FROM SURFACE WATERS AND/OR WETLANDS.

PERMIT NOTES

1. REASONABLE EFFORT SHALL BE MADE TO CONDUCT THE ACTIVITIES SHOWN IN THESE PLANS IN A MANNER THAT MINIMIZES ADVERSE IMPACT TO WATER QUALITY, FISH AND WILDLIFE, AND THE NATURAL ENVIRONMENT.
2. ALL WORK SHALL BE IN COMPLIANCE WITH PERMIT CONDITIONS ISSUED BY THE U.S. ARMY CORPS OF ENGINEERS, IDAHO DEPARTMENT OF WATER RESOURCES, IDAHO DEPARTMENT OF ENVIRONMENTAL QUALITY, AND THE CITY OF KETCHUM. IT IS THE CONTRACTOR'S RESPONSIBILITY TO HAVE COPIES OF ALL PERMITS ON THE JOB SITE AND UNDERSTAND AND COMPLY WITH ALL PERMIT CONDITIONS.
3. ALL ACTIVITIES THAT INVOLVE WORK ADJACENT TO OR WITHIN THE WETTED CHANNEL SHALL, AT ALL TIMES, REMAIN CONSISTENT WITH ALL APPLICABLE WATER QUALITY STANDARDS, EFFLUENT LIMITATION AND STANDARDS OF PERFORMANCE, PROHIBITIONS, PRETREATMENT STANDARDS, AND MANAGEMENT PRACTICES ESTABLISHED PURSUANT TO THE CLEAN WATER ACT OR PURSUANT TO APPLICABLE STATE AND LOCAL LAW.
4. IF AT ANY TIME, AS A RESULT OF PROJECT ACTIVITIES, FISH ARE OBSERVED IN DISTRESS, A FISH KILL OCCURS, OR WATER QUALITY PROBLEMS DEVELOP (INCLUDING EQUIPMENT LEAKS OR SPILLS), OPERATIONS SHALL CEASE AND THE ENGINEER SHALL BE NOTIFIED IMMEDIATELY.

FEMA SPECIAL FLOOD HAZARD AREA NOTES

1. THIS PROJECT IS LOCATED WITHIN A SPECIAL FLOOD HAZARD AREA ZONE AE AND FLOODWAY AS DEPICTED ON FEMA FLOOD INSURANCE RATE MAP 16013C0453E EFFECTIVE 11/26/2010. THE DESIGN ELEMENTS DEPICTED ON THESE DRAWINGS COMPLY WITH FEMA NATIONAL FLOOD INSURANCE PROGRAM REGULATIONS.



NOTES:
1. SEE SHEET C3 FOR SIDE CHANNEL PROFILE AND CROSS SECTIONS.
2. SEE SHEET L1 FOR RIPARIAN SETBACK / REVEGETATION PLAN.

DIGLINE Call Before You Dig

QRS consulting
Quadrant + River Structures

REGISTERED PROFESSIONAL ENGINEER 10969 STATE OF IDAHO NICHOLAS L. KRAUS
3-12-26

MARSUPIAL PROPERTIES STABILIZATION

SITE PLAN

KETCHUM IDAHO

SCALE: 1"=20'

PROJECT NO. 831-01

DESIGNED BY: AE/NK
DRAWN BY: AE/KD
CHECKED BY: NK
PLOT DATE: 3/12/2026

NO.	DATE	BY	REVISION
1	4/2/2024	KD	ADJACENT PROPERTY OWNER COMMENTS
2	3/11/2026	KD	RESPONSE TO REVIEW COMMENTS
3			
4			
5			
6			

SHEET
C2

USER: ARL LOCATION: D:\1_PROJECTS\MARSUPIAL PROPERTIES 2025\RUSACK BANK DESIGN 7-2023 STANDARD\RUSACK BANK DESIGN_03-12-2026.DWG

GRAPHIC SCALE
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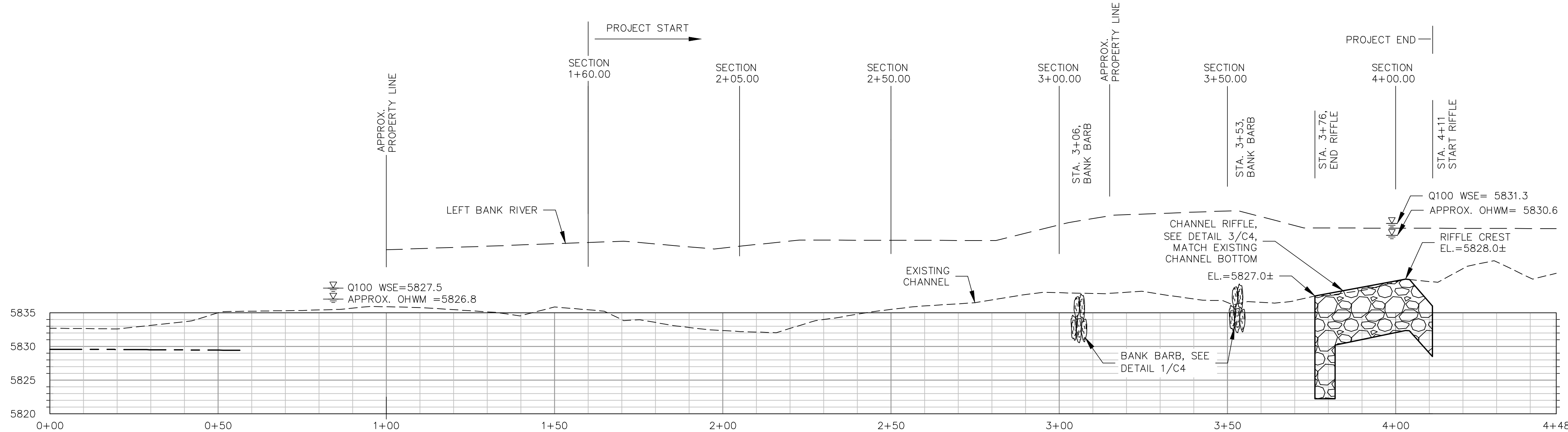
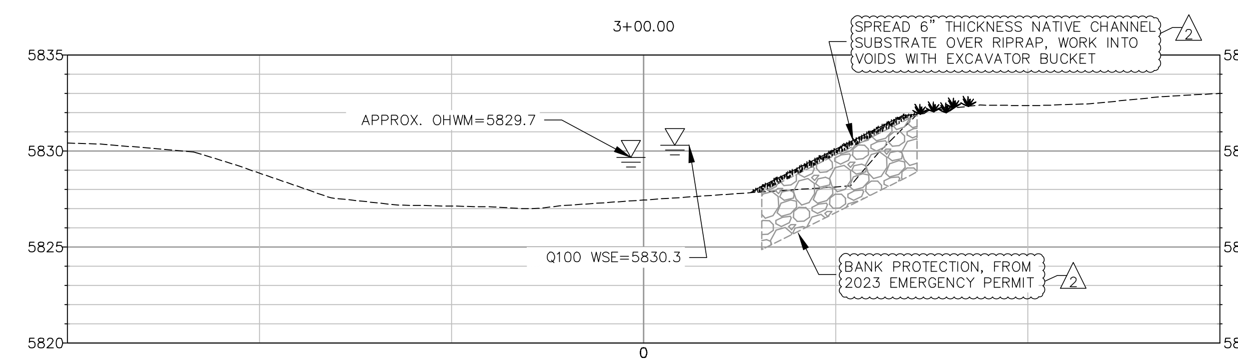
(IN FEET)
1 INCH = 20 FT.
VERT SCALE=5:1



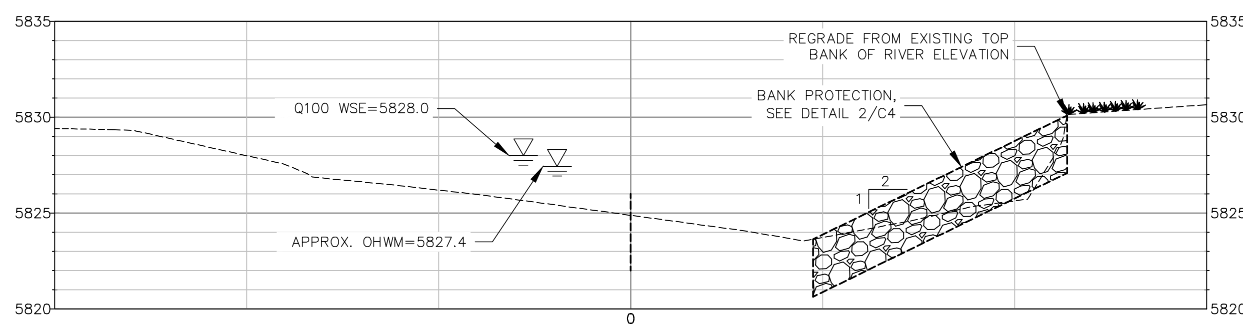
SIDE CHANNEL PROFILE

NOTE: INTENT OF RIFFLE IS TO MAINTAIN LONG TERM HIGH FLOW SIDE CHANNEL CONVEYANCE AND TO LIMIT RISK OF CAPTURING ENTIRE RIVER FLOW DURING FUTURE HIGH WATER EVENTS

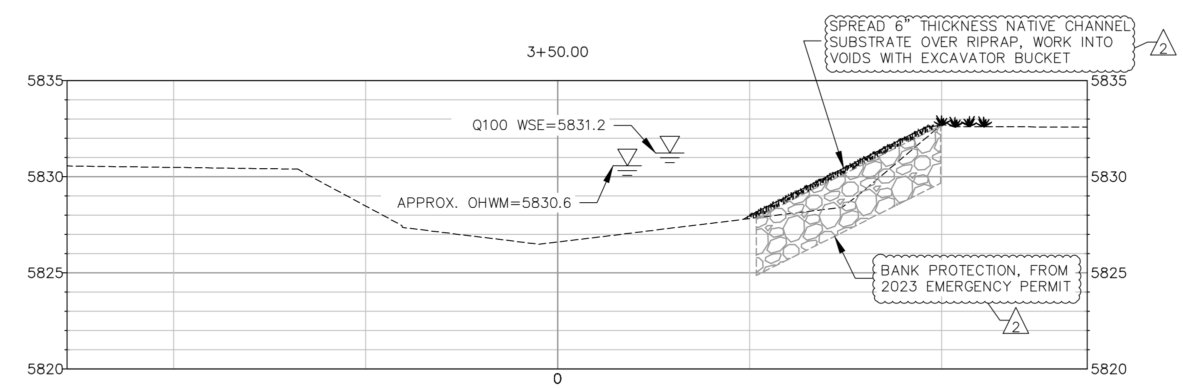
3+00.00



2+05.00



3+50.00



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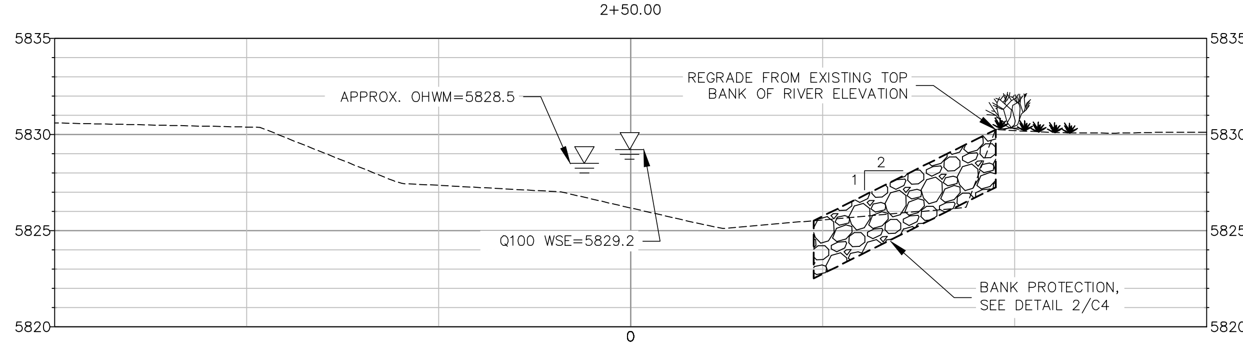

GRAPHIC SCALE
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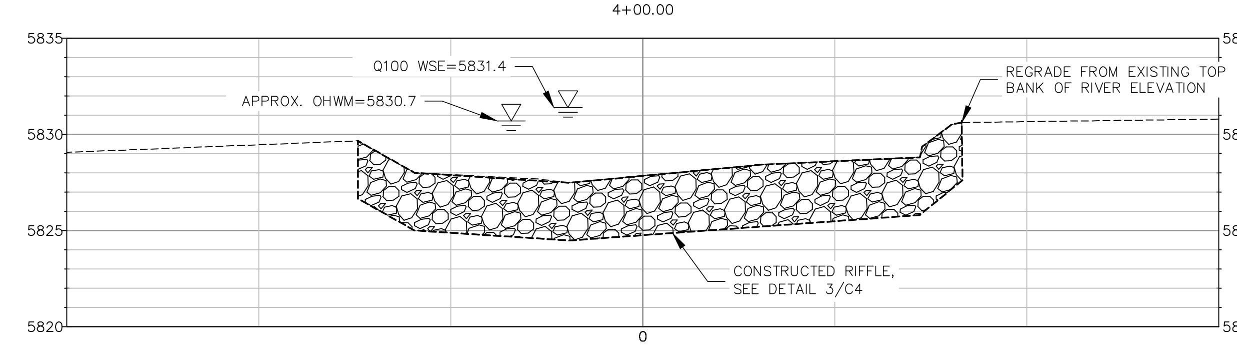
(IN FEET)
1 INCH = 5 FT.
VERT SCALE=1:1

4+00.00



Quadrant + River Structures consulting

PROFESSIONAL ENGINEER REGISTERED 10969 STATE OF IDAHO NICHOLAS A. KRAUS
3-12-26

MARSUPIAL PROPERTIES STABILIZATION
PROFILE & CROSS SECTIONS

KETCHUM IDAHO

PROJECT NO. 831-01

SCALE: VARIES

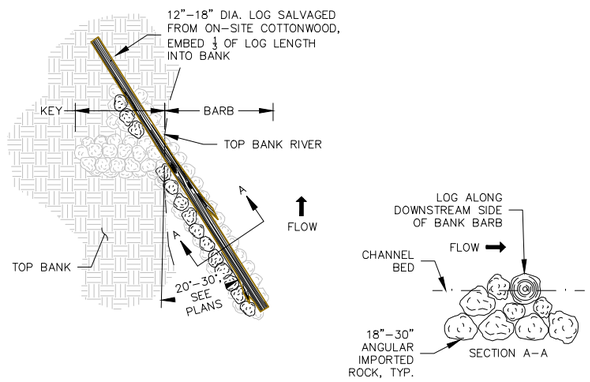
DESIGNED BY: AE/NK
DRAWN BY: AE/KD
CHECKED BY: NK
PLOT DATE: 3/12/2026

NO.	DATE	BY	REVISION
1	4/2/2024	KD	ADJACENT PROPERTY OWNER COMMENTS
2	3/11/2026	KD	RESPONSE TO REVIEW COMMENTS
3			
4			
5			
6			
7			

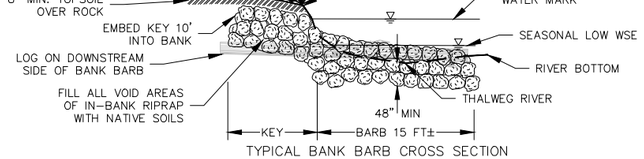
SHEET
C3

USER:KARL LOCATION:D:\1_PROJECTS\MARSUPIAL PROPERTIES 2025\RUSACK BANK DESIGN_1-27-2023 - STANDARD\RUSACK BANK DESIGN_03-11-2026.DWG

NOTES:
1. DIMENSIONS AND ORIENTATION GIVEN ARE APPROXIMATE. FINAL SIZE AND ORIENTATION TO BE DETERMINED BY ENGINEER AT TIME OF CONSTRUCTION. BARB LENGTH NOT TO EXCEED 25% WETTED CHANNEL WIDTH.
2. BANK BARB COMPRISED OF 50± C.Y. OF CLEAN ROCK.
3. IMPORTED ROCK SHALL BE ANGULAR TO SUB-ROUNDED, LOCALLY SOURCED GRANITIC ROCK SIMILAR IN COLOR AND TEXTURE TO THE EXISTING CHANNEL SUBSTRATE. ENGINEER SHALL APPROVE ROCK SOURCE PRIOR TO IMPORT.

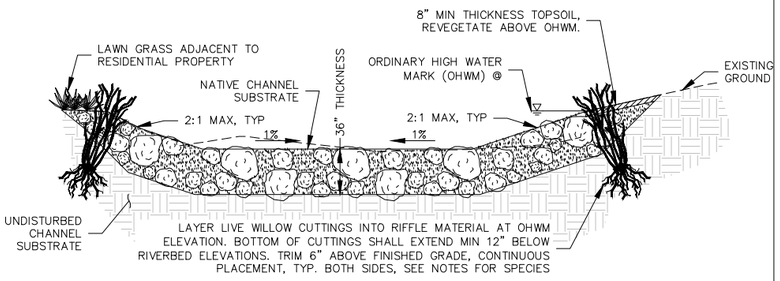


TYPICAL BANK BARB PLAN VIEW

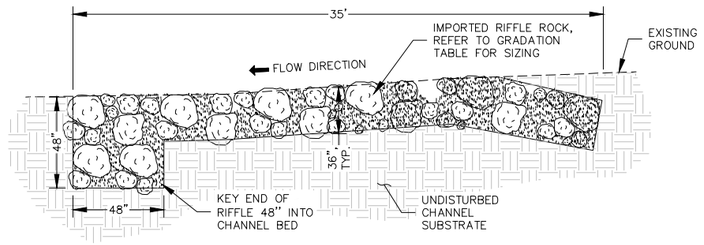


TYPICAL BANK BARB CROSS SECTION

BANK BARB DETAIL 1/C4
NTS



SECTION VIEW (LOOKING DOWNSTREAM)



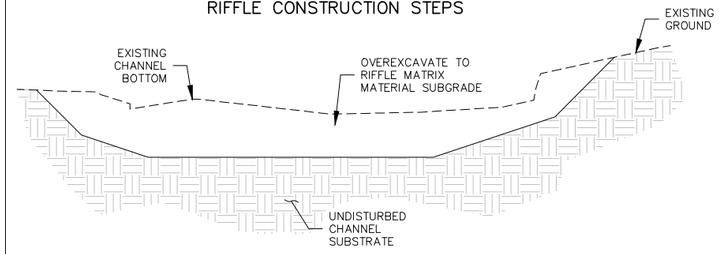
PROFILE VIEW

IMPORTED RIFFLE MATRIX GRADATION	
PERCENT PASSING	SIZE CLASS RANGE (INCHES)
100%	18
50%	12
30%	6

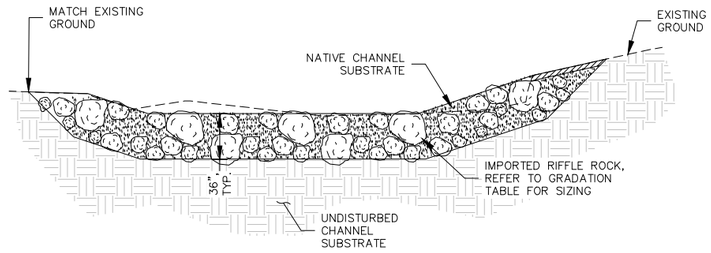
GRADATION NOTES:
1. PERCENT PASSING SIZE CLASS IS BASED ON NOMINAL DIAMETER OF IMPORTED ROCK.
2. NOMINAL DIAMETER SHALL BE MEASURED AS THE INTERMEDIATE AXIS WHERE THE SMALL AND LARGE AXIS SHALL NOT BE MORE THAN 2 TIMES LESS THAN OR GREATER THAN THE NOMINAL DIAMETER.
3. IMPORTED ROCK SHALL BE ANGULAR TO SUB-ROUNDED, LOCALLY SOURCED GRANITIC ROCK SIMILAR IN COLOR AND TEXTURE TO THE EXISTING CHANNEL SUBSTRATE. ENGINEER SHALL APPROVE ROCK SOURCE PRIOR TO IMPORT.
4. LIVE CUTTINGS TO BE BEBB'S OR DRUMMOND WILLOW.

TYPICAL CONSTRUCTED RIFFLE 3/C4
NTS

RIFFLE CONSTRUCTION STEPS

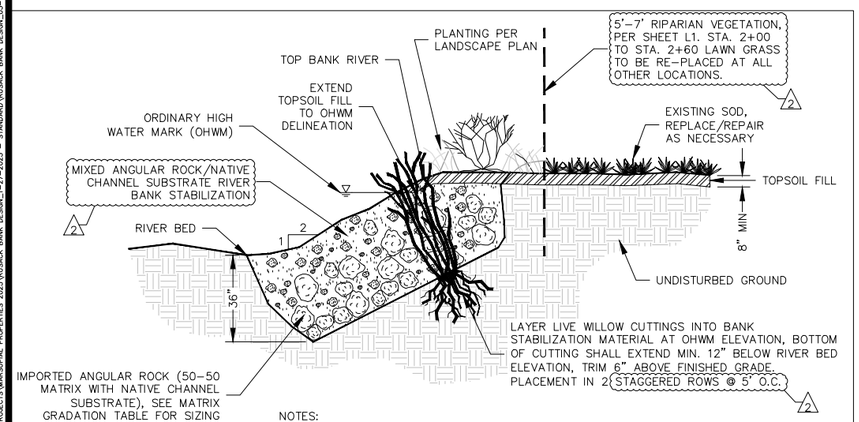


STEP 1



STEP 2

RIFFLE PLACEMENT NOTES:
1. RIFFLE PLACEMENT SHALL GENERALLY OCCUR IN 2 OR MORE LIFTS AS FOLLOWS:
   1.1. RE-GRADE SUBGRADE TO DESIGN ELEVATIONS.
   1.2. PLACE LAYER OF IMPORTED RIFFLE MATRIX ROCK LEAVING APPROXIMATELY 50% VOID SPACE, SEAT INTO FINISHED SUBGRADE USING EXCAVATOR BUCKET.
   1.3. FILL VOID SPACES BETWEEN ROCK WITH NATIVE CHANNEL SUBSTRATE AND TRACK WALK WITH EXCAVATOR.
   1.4. PRESSURE WASH SUBSTRATE IN VOID AREAS TO CONSOLIDATE. ADD ADDITIONAL MATERIAL TO MAKE UP FOR SETTLEMENT. FINISHED SURFACE SHALL TEMPORARILY POND WATER OR AS APPROVED BY ENGINEER.
   1.5. PLACE ADDITIONAL LAYERS OF ROCK/SUBSTRATE AS NECESSARY TO ACHIEVE FINAL FINISHED GRADE.
   1.6. REMOVE EXCESS EXCAVATED CHANNEL MATERIAL OFF-SITE.
   1.7. FINISHED SURFACE SHALL RESEMBLE EXISTING CHANNEL BED IN NATURE AND APPEARANCE.



NOTES:
1. CONTAINER PLANTS AND LIVE CUTTINGS SHALL BE BEB'S OR DRUMMOND WILLOW
2. DETAIL APPLIES TO STA. 2+00 TO STA. 2+60.

BANK PROTECTION DETAIL 2/C4
NTS

BANK PROTECTION MATRIX GRADATION

BANK PROTECTION PLACEMENT NOTES:
1. BANK PROTECTION PLACEMENT SHALL GENERALLY OCCUR IN 2 OR MORE LIFTS AS FOLLOWS:
   1.1. RE-GRADE SUBGRADE TO DESIGN ELEVATIONS.
   1.2. PLACE LAYER OF IMPORTED ROCK LEAVING APPROXIMATELY 50% VOID SPACE, SEAT INTO FINISHED SUBGRADE USING EXCAVATOR BUCKET.
   1.3. FILL VOID SPACES BETWEEN ROCK WITH NATIVE CHANNEL SUBSTRATE AND COMPACT WITH EXCAVATOR BUCKET.
   1.4. PRESSURE WASH SUBSTRATE IN VOID AREAS TO CONSOLIDATE. ADD ADDITIONAL MATERIAL TO MAKE UP FOR SETTLEMENT.
   1.5. PLACE ADDITIONAL LAYERS OF ROCK/SUBSTRATE AS NECESSARY TO ACHIEVE FINAL FINISHED GRADE.
   1.6. REMOVE EXCESS EXCAVATED CHANNEL MATERIAL OFF-SITE.
   1.7. FINISHED SURFACE SHALL RESEMBLE EXISTING CHANNEL BED IN NATURE AND APPEARANCE.

RIFFLE MATRIX GRADATION	
PERCENT PASSING	SIZE CLASS RANGE (INCHES)
100%	18
50%	12
30%	6

GRADATION NOTES:
1. PERCENT PASSING SIZE CLASS IS BASED ON NOMINAL DIAMETER OF IMPORTED ROCK.
2. NOMINAL DIAMETER SHALL BE MEASURED AS THE INTERMEDIATE AXIS WHERE THE SMALL AND LARGE AXIS SHALL NOT BE MORE THAN 2 TIMES LESS THAN OR GREATER THAN THE NOMINAL DIAMETER.
3. IMPORTED ROCK SHALL BE ANGULAR TO SUB-ROUNDED, LOCALLY SOURCED GRANITIC ROCK SIMILAR IN COLOR AND TEXTURE TO THE EXISTING CHANNEL SUBSTRATE. ENGINEER SHALL APPROVE ROCK SOURCE PRIOR TO IMPORT.

Quadrant + River Structures

PROFESSIONAL ENGINEER REGISTERED 10969 STATE OF IDAHO NICHOLAS A. KRAUS 3-12-26

MARSUPIAL PROPERTIES STABILIZATION
DETAILS
KETCHUM IDAHO

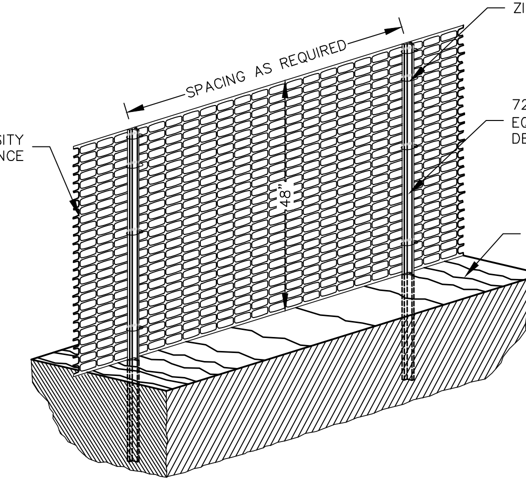
PROJECT NO. 831-01

SCALE: 1"=20'

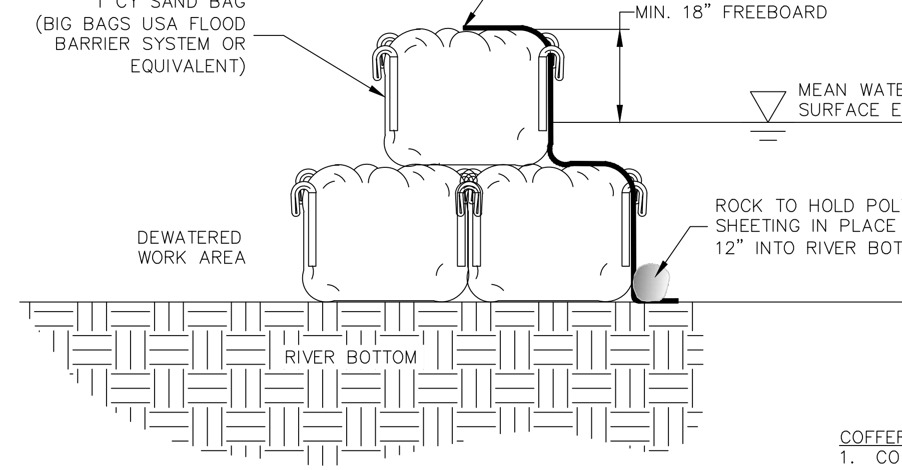
DESIGNED BY: AE/NK
DRAWN BY: AE/KD
CHECKED BY: NK
PLOT DATE: 3/12/2026

NO.	DATE	BY	REVISION
1	4/17/2024	KD	ADJACENT PROPERTY OWNER COMMENTS
2	5/17/2026	KD	RESPONSE TO REVIEW COMMENTS

SHEET
C4



SAFETY FENCE DETAIL
NTS



NOTE: PROVIDE ADDITIONAL SAND BAG TIER AS NECESSARY TO ACCOMMODATE DEEPER WATER DEPTHS UP TO A MAXIMUM OF 2 TIERS TOTAL.

TEMPORARY COFFERDAM DETAIL
NTS

COFFERDAM CONSTRUCTION NOTES

1. CONSTRUCT COFFERDAM TO ISOLATE PROJECT REACH
2. CONSTRUCT IN-CHANNEL WORK IN THE DRY, ISOLATED BY COFFERDAM AND OUTSIDE OF ACTIVE FLOWING WATER.
3. RE-WATER AREA BEHIND COFFERDAM, COORDINATE WITH ENGINEER FOR INSPECTION OF ALL WORK PRIOR TO REMOVAL. REMOVE ALL TEMPORARY COFFERDAM MATERIALS OFF-SITE.

QRS consulting
Quadrant + River Structures

PROFESSIONAL ENGINEER REGISTERED 10969 STATE OF IDAHO NICHOLAS A. KRAUS
[illegible]
3-12-26

MARSUPIAL PROPERTIES STABILIZATION
DEWATERING/EROSION CONTROL PLAN
KETCHUM IDAHO

SCALE: 1"=20'
PROJECT NO. 831-01

DESIGNED BY: AE/NK
DRAWN BY: AE/KD
CHECKED BY: NK
PLOT DATE: 3/12/2026

NO.	DATE	BY	REVISION
1	4/2/2024	KD	ADJACENT PROPERTY OWNER COMMENTS
2	3/11/2026	KD	RESPONSE TO REVIEW COMMENTS
3			
4			
5			
6			
7			

SHEET
C5

USER: KARL LOCATION: D:\1_PROJECTS\MARSUPIAL PROPERTIES 2025\RUSACK BANK DESIGN_1-27-2023 - STANDARD\RUSACK BANK DESIGN_03-11-2026.DWG

N

GRAPHIC SCALE
0 10 20
(IN FEET)
1 INCH = 20 FT.

- TOE OF RIVER
- TOP BANK OF RIVER
- PROPERTY LINE
- MINOR CONTOUR LINE
- MAJOR CONTOUR LINE
- FW FLOODWAY
- FP 100 YEAR FLOODPLAIN
- ORDINARY HIGH WATER MARK
- 20' LIMITED USE FERTILIZER BOUNDARY
- 5'–7' STREAMSIDE BUFFER/ NATIVE PLANTING BOUNDARY

WATER CONSERVATION LANDSCAPING GUIDELINES

1. ALL NEW TURF AREAS REQUIRE A SOIL DEPTH OF 8": ONE PART COMPOST TO 3 PARTS SOIL.
2. ALL NEW SHRUB BEDS REQUIRE A SOIL DEPTH OF 12": ONE PART COMPOST TO 3 PARTS SOIL
3. DURING EXCAVATION, EXISTING SOIL IS TO REMAIN ON SITE AND BE TEMPORARILY FENCED TO PROTECT FROM COMPACTION OUTSIDE OF ACTIVE WORK AREAS.
4. PROTECT AND MINIMIZE DISTURBANCE OF EXISTING TREES AND VEGETATION WHEN EXCAVATING.
5. ALL SHRUB BEDS, SHALL HAVE 4"–6" MULCH TO MINIMIZE EVAPORATION.
6. MULCH AROUND TREES AND SHRUBS SHALL BE PLACED SEVERAL INCHES FROM THE TRUNKS AND EXTEND TO THE OUTER DRIP LINE.

LANDSCAPING NOTES

1. A 5'–7' BOUNDARY FROM ORDINARY HIGH WATER MARK (OHWM) AS SHOWN SHALL BE ESTABLISHED AS A STREAMSIDE BUFFER RIPARIAN ZONE. WITHIN THIS BOUNDARY, ONLY NATIVE PLANT SPECIES SHALL BE PLANTED. NATIVE GRASSES WITHIN THIS BOUNDARY SHALL BE UN–MAINTAINED, DROUGHT TOLERANT, AND INCLUDE THE BELOW LIST OF SPECIES. GRASS PLANTINGS SHALL BE HYDROSEEDED. 2
2. SHRUB / TREE PLANTINGS WITHIN THE STREAMSIDE BUFFER / RIPARIAN ZONE SHALL MEET THE REQUIREMENTS OF KETCHUM CITY CODE 17.88.050.E.4. PLANTINGS SHALL BE EITHER BEBB'S OR DRUMMOND'S WILLOW. 2 2
3. A 25' BOUNDARY FROM ORDINARY HIGH WATER MARK (OHWM) SHALL BE ESTABLISHED AS A LIMITED FERTILIZATION ZONE. FOLLOWING BEST PRACTICES SHALL APPLY:
   - A. MULCH GRASS CLIPPINGS BACK INTO LAWN.
   - B. CUT LAWN TO 3–4" LENGTH OR LONGER TO LIMIT WATER USE.
   - C. IF NEEDED, ONLY USE ORGANIC SLOW RELEASE FERTILIZER.
4. CONTRACTOR SHALL ADJUST EXISTING RESIDENTIAL IRRIGATION SYSTEM TO ENSURE RIPARIAN BUFFER RECEIVES SUFFICIENT WATER TO ESTABLISH PLANTINGS. 2

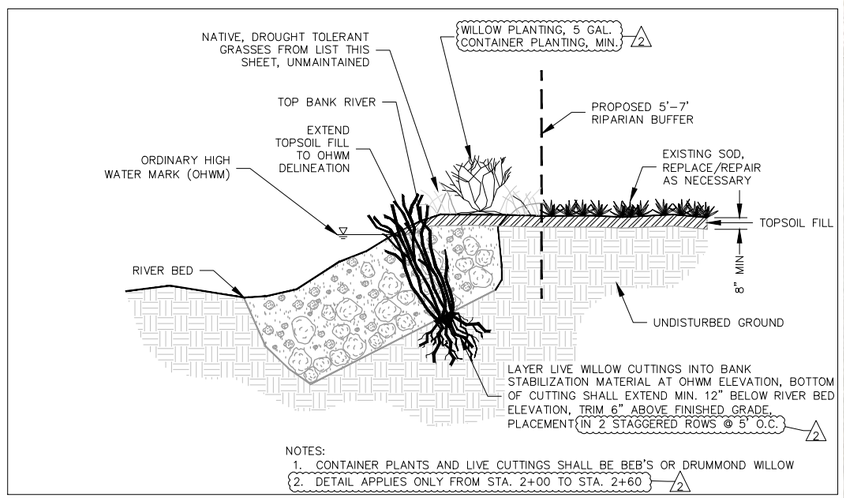
NATIVE, DROUGHT TOLERANT GRASSES 2

COMMON NAME	BOTANICAL NAME
IDAHO FESCUE	FESTUCA IDAHOENSIS
STREAMBANK WHEATGRASS	AGROPYRON RIPARIUM
CREEPING RED FESCUE	FESTUCA RUBRA
BLUEBUNCH WHEATGRASS	PSEUDOROEGNERIA SPICATA
SILKY LUPINE	LUPINUS SERICEUS

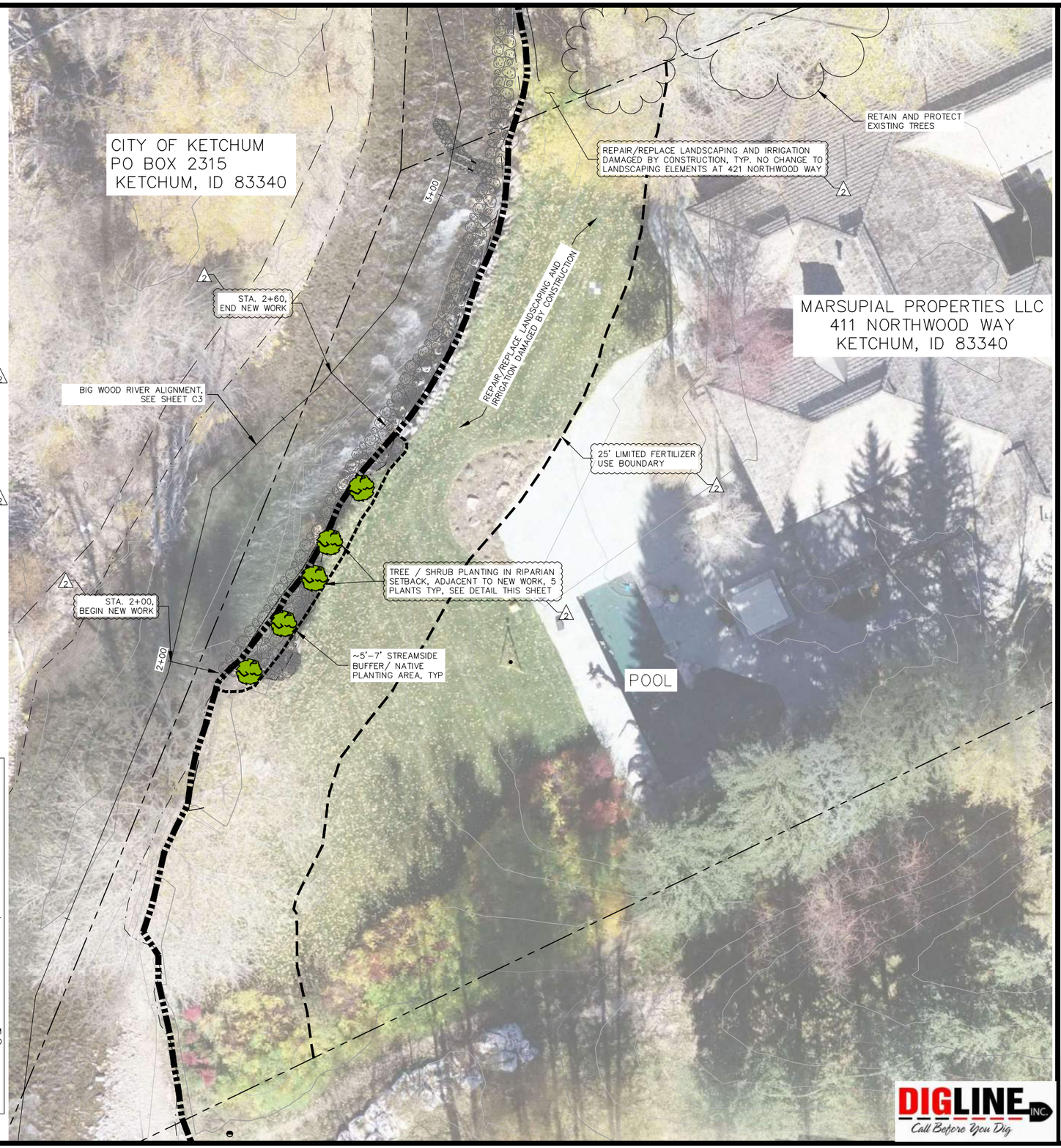
NATIVE SHRUB AND TREE SPECIES

(KETCHUM CITY CODE 17.88.050.E.4)

- RED OSIER DOGWOOD
- COMMON CHOKECHERRY
- SERVICEBERRY
- ELDERBERRY
- RIVER BIRCH
- SKUNK BUSH SUMAC
- BEBB'S WILLOW
- DRUMMOND'S WILLOW
- LITTLE WILD ROSE
- GOOSEBERRY
- HONEYSUCKLE



NOTES:
1. CONTAINER PLANTS AND LIVE CUTTINGS SHALL BE BEB'S OR DRUMMOND WILLOW
2. DETAIL APPLIES ONLY FROM STA. 2+00 TO STA. 2+60 2



DIGLINE INC. Call Before You Dig

Quadrant + River Structures consulting

PROFESSIONAL ENGINEER REGISTERED 10969 STATE OF IDAHO NICHOLAS A. KRAUS
3-12-26

MARSUPIAL PROPERTIES STABILIZATION
REVEGETATION PLAN

KETCHUM IDAHO

PROJECT NO. 831-01

SCALE: 1"=20'

DESIGNED BY: AE/NK
DRAWN BY: AE/KD
CHECKED BY: NK
PLOT DATE: 3/12/2026

NO:	DATE	BY	REVISION
1	4/21/2024	KD	ADJACENT PROPERTY OWNER COMMENTS
2	3/11/2026	KD	RESPONSE TO REVIEW COMMENTS

SHEET
L1

USER:KARL LOCATION:S:_PROJECTS\MARSUPIAL PROPERTIES 2023\WUSACK BANK DESIGN_1-29-2023 – STANDARD\WUSACK BANK DESIGN_03-11-2026.DWG

City of Ketchum

ATTACHMENT D

HARMONY
DESIGN & ENGINEERING

Memo

To: Allison Kennedy, City of Ketchum

From: Jennifer Zung, PE, CFM

CC:

Date: 5/21/2026

Re: Marsupial Properties Bank Stabilization Project, Stream Alteration Permit Review (P20-073)

Per your request, I have reviewed the Stream Alteration Permit for the Marsupial Properties Bank Stabilization Project (SAP No. P24-038) with respect to City of Ketchum municipal code Chapter 17.88, Article 1. Flood Damage Prevention. This review is based on construction plans titled Marsupial Properties Bank Stabilization Project and an accompanying design report and response letter by Quadrant Consulting, Inc. dated March 16, 2026.

Bioengineering/Fish and Wildlife Habitat

1. This comment has been addressed, although it is noted that only 1 additional shrub was added.

2. This comment has been addressed.

Long Term Stability

3. This comment has been addressed. See comment 6 below re: providing a single velocity comparison map.

4. This comment has been addressed.

No Rise Certification and Hydraulic Model

5. The documentation for the 2D no rise analysis must follow the latest FEMA Guidance for Flood Risk Analysis and Mapping. The results of the proposed conditions model must be compared to the existing conditions model to show no increase to 0.00' at any existing or new evaluation line, which is a line of constant elevation in the 2D model and does not correspond to the 1D cross sections. Additionally, the water surface elevation grids should be compared (subtracted) for the existing and proposed conditions to ensure that the proposed

development causes no local (point) rise on any existing insurable structure. Please provide a table that compares the existing and proposed 1% annual chance flood elevations along evaluation lines and a map of the elevation difference grid with existing structures shown.

6. Please provide a single map that shows the comparison of the velocity grids (subtracted) between the existing and proposed conditions.

7. This comment has been addressed.

END OF DOCUMENT

City of Ketchum

ATTACHMENT E

Technical Memorandum

Project:	Marsupial Properties Bank Stabilization – 411 Northwood Stream Alteration Permit P24-038
To:	City of Ketchum Planning & Building
From:	QRS Consulting, LLC
Date:	03/16/26
Subject:	Response to Harmony Design Comments

The following memorandum provides responses to the technical comments by Harmony Design dated June 5, 2024 for the above-referenced permit application.

Bioengineering/Fish and Wildlife Habitat

Comment #1: The willow density has been clarified on Sheet L1 in accordance with the written legal responses by Givens Pursley LLP.

Comment #2: The fertilizer use boundary has been extended to 25 feet from the Ordinary High Water mark.

Long Term Stability

Comment #3: Two-dimensional existing and proposed conditions hydraulic modeling has been updated using 2024 LiDAR data, which is the best available topographic data for the project area. The hydraulic modeling effort demonstrates no increase in average or localized flow velocity upstream or downstream of the project as shown in Exhibit A.

Comment #4: All large woody debris currently within the project footprint will remain in the floodplain. The intent is to relocate the log jam in the Main Big Wood River channel as it impedes high flows and forces significant water down the project side channel, increasing bank scour. The relocated large woody debris will be spread out within the floodplain to maintain the habitat function of the existing material. Should the Community Library withhold approval to relocate the log jam in the Main Big Wood River channel, the remaining proposed work at 411 and 421 Northwood Way will not be adversely affected.

No-Rise Certification and Hydraulic Model

Comment #5: Due to the complexity of the flow dynamics in the Big Wood River through the project reach with flood flows split into multiple channel threads with cross channel interconnection, it is our opinion that a one-dimensional hydraulic model does not provide an accurate representation of flow dynamics for localized analysis purposes. Therefore, we are respectfully submitting the results of our two-dimensional hydraulic model analysis for consideration. Verification that the proposed project does not increase water surface elevations

at the upstream project extents, downstream project extents, and through the project reach is provided in Exhibit A.

Comment #6: Updated existing and proposed conditions hydraulic model output depicting water surface velocities through the project reach are provided in Exhibit A.

Comment #7: An approximation of the pre-2017 channel bank location is depicted in Exhibit A. This location was estimated by overlaying georeferenced aerial imagery from 2013 and 2016 onto the Drawings. No additional riprap is being placed along the length of the 2023 emergency project. However, the project does intend to intermix native channel material into the existing riprap to improve revegetation success and to better visually blend with the native material in the adjacent river channel.

3-16-26

N

GRAPHIC SCALE

0 20 40

(IN FEET)
1 INCH = 20 FT.

LEGEND

TOP BANK OF RIVER 2013

PROPERTY LINE

NOTES

1. AERIAL IMAGERY IS FROM DRONE FLIGHT PERFORMED BY QUADRANT CONSULTING ON OCTOBER 23, 2023

AVERAGE VELOCITY		
STATION	EXISTING CONDITIONS FT/S	PROPOSED CONDITIONS FT/S
1+00	4.9	4.9
2+00	6.1	5.9
3+00	6.9	7.2
3+50	6.8	6.9
4+00	5.1	5.1

CHANNEL VELOCITY NOTES

1. AS VERIFIED IN THE TABLE, THE PROPOSED PROJECT DOES NOT INCREASE CHANNEL VELOCITY AT THE DOWNSTREAM PROPERTY LINE FOR 411 NORTHWOOD WAY.

2. AVERAGE CHANNEL VELOCITY AT STATIONS 3+00 AND 3+50 SHOW AN INCREASE BETWEEN EXISTING AND PROPOSED CONDITIONS. THIS VELOCITY INCREASE IS ATTRIBUTABLE TO LOCALIZED EFFECTS FROM THE PROPOSED BANK BARBS AT THOSE LOCATIONS.

consulting
Quadrant + River Structures

MARSUPIAL PROPERTIES STABILIZATION

MODEL RESULTS EXHIBIT – PLAN VIEW

KETCHUM IDAHO

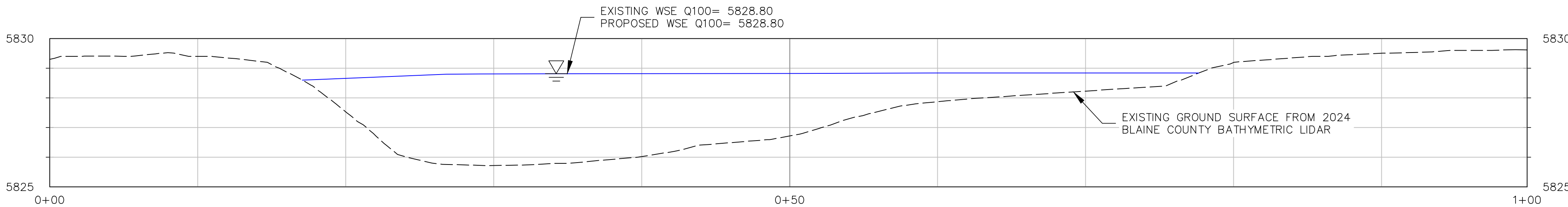
PROJECT NO. 831-01

SCALE: 1"=20'

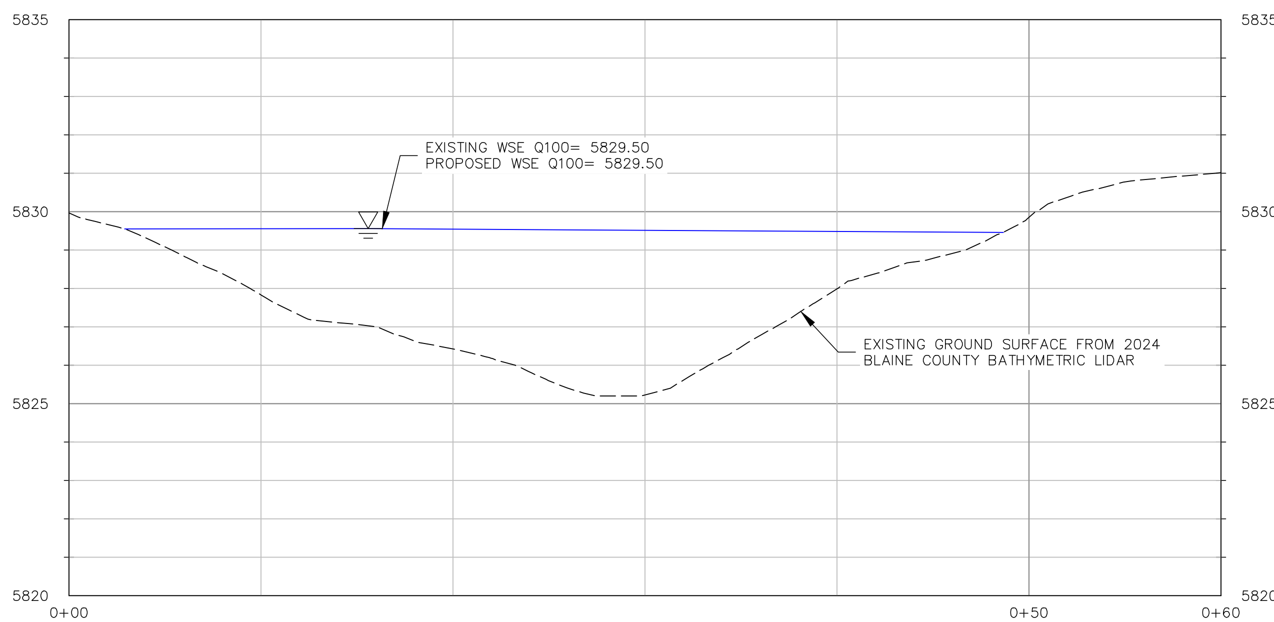
DESIGNED BY: NK
DRAWN BY: KD
CHECKED BY: NK
PLOT DATE: 2/26/2026

NO.	DATE	BY	REVISION
1			
2			
3			
4			
5			
6			

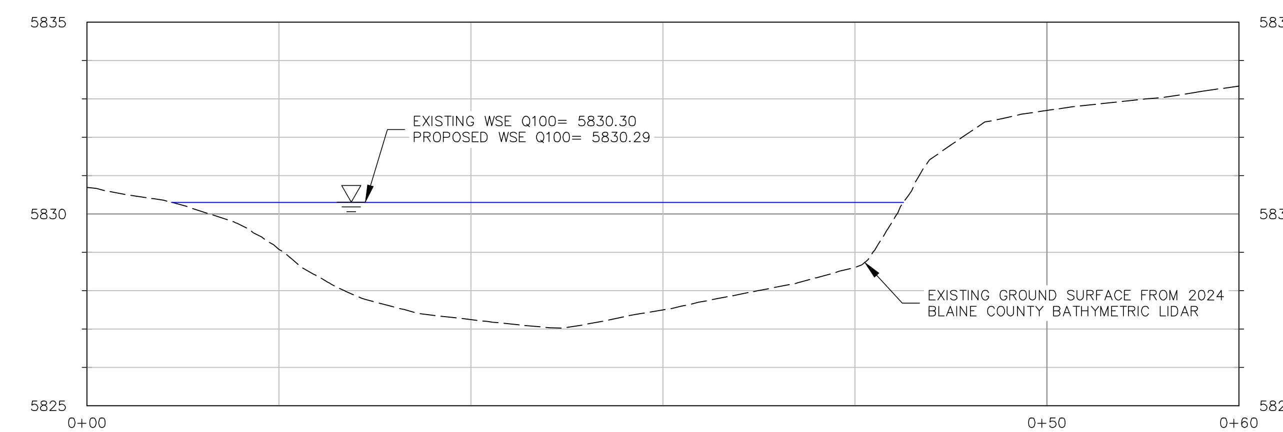
SHEET
1 OF 4



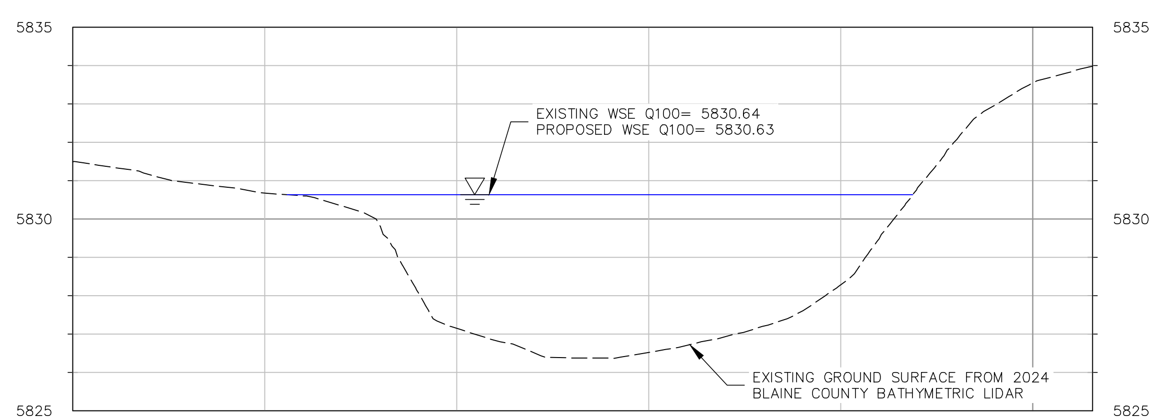
1+00 PROFILE



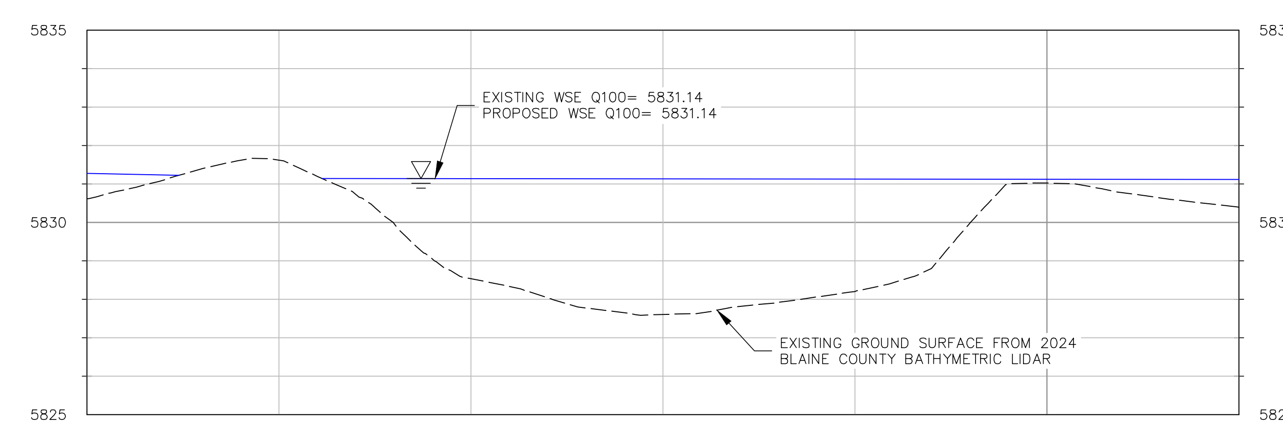
2+00 PROFILE



3+00 PROFILE



3+50 PROFILE



4+00 PROFILE

GRAPHIC SCALE
0 5 10
(IN FEET)
HORIZONTAL SCALE: 1 INCH = 5 FT.
VERT SCALE: 1 INCH = 2.5 FT

USER: KARL LOCATION: D:\1_PROJECTS\MARSUPIAL PROPERTIES 2025\RUSACK BANK DESIGN_1-27-2023 - STANDARD\RUSACK BANK DESIGN_02-26-2026 WSE FOR HEC RAS RESULTS.DWG

Quadrant + River Structures
consulting

MARSUPIAL PROPERTIES STABILIZATION
MODEL RESULTS – PROFILES

KETCHUM IDAHO

PROJECT NO. 831-01

SCALE: VARIES

DESIGNED BY: NK
DRAWN BY: KD
CHECKED BY: NK
PLOT DATE: 2/26/2026

NO.	DATE	BY	REVISION
1			
2			
3			
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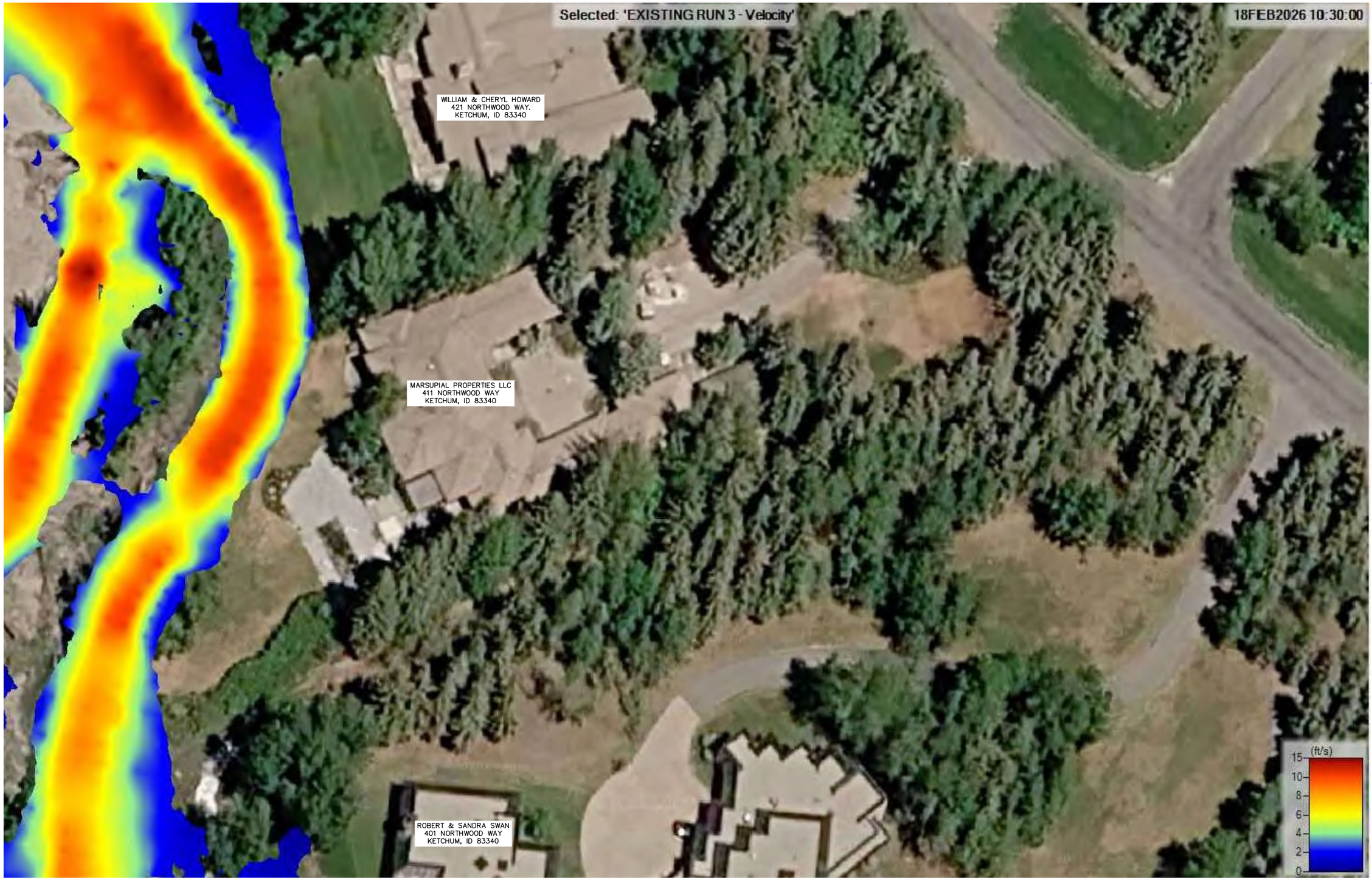
SHEET
2 OF 4



GRAPHIC SCALE

0 20 40

(IN FEET)
1 INCH = 10 FT.

Quadrant + River Structures

MARSUPIAL PROPERTIES STABILIZATION

MODEL RESULTS - EXISTING VELOCITY

KETCHUM IDAHO

SCALE: VARIES

PROJECT NO. 831-01

DESIGNED BY: NK
DRAWN BY: KD
CHECKED BY: NK
PLOT DATE: 2/26/2026

NO.	DATE	BY	REVISION

SHEET
3 OF 4

SHEET 4 OF 4

DESIGNED BY: NK
DRAWN BY: KD
CHECKED BY: NK
PLOT DATE: 2/26/2026

NO.	DATE	BY	REVISION
1			
2			
3			
4			
5			
6			

MARSUPIAL PROPERTIES STABILIZATION

MODEL RESULTS – PROPOSED VELOCITY

KETCHUM IDAHO

SCALE:	PROJECT NO.	
VARIES	831-01	

QRS consulting
Quadrant + River Structures

City of Ketchum

ATTACHMENT F

GIVENS PURSLEY LLP
Attorneys and Counselors at Law

601 W. Bannock Street
PO Box 2720
Boise, ID 83701
Telephone: 208-388-1200
www.givenspursley.com

Elizabeth A. Koeckeritz
eak@givenspursley.com
208-388-1250

January 27, 2026

Via US Mail and Email

Matt Johnson, City Attorney
Morgan Landers, Planning Director
City of Ketchum
P.O. Box 2315
Ketchum, Idaho 83340
mjohnson@whitepeterson.com
mlanders@ketchumidaho.org

RE: Permit # P20-073 at 411 Northwood Way

Dear Mr. Johnson and Mr. Landers:

We write on behalf of client Marsupial Properties, LLC to support its application for a stream alteration permit ("P20-073") to conduct necessary riverbank repairs on its property located at 411 Northwood Way (the "Property"). Current application P20-073 is the culmination of a five year process to stabilize the riverbank along the Property. Due to a dispute regarding landscaping along the riverbank, the permit has not been issued, causing increased erosion and leaving the Property and downstream neighboring properties at serious risk of flooding and physical damage. We write to rebut the City of Ketchum's (the "City") assertions that the existing landscaping makes the Property out of compliance with the zoning ordinance and to demand that P20-073 be scheduled for a public hearing as soon as possible.

Mr. Johnson's most recent letter, dated January 15, 2025, maintains that the Property was not legally nonconforming because it was subject to the Northwood CUP-PUD approved by the Ketchum City Council on December 19, 1983. That CUP-PUD contained a condition prohibiting landscaping being placed within the 25' riparian setback. While the letter asserts that the permit runs with the land and binds the Property, the permit itself expressly provides otherwise. Page 1 of that CUP-PUD, immediately adjacent to the signature of the Mayor, states: "This conditional use permit – planned unit development is held by the applicant and is non-transferable."

Because the CUP-PUD is explicitly nontransferable, it ceased to be effective upon the developer's initial sale of the Property in 1985 and does not run with the land. Accordingly, the CUP-PUD does not apply to the Property or to its current owner. Page 1 of the CUP-PUD is attached as Exhibit A.

Absent the CUP-PUD, the Property's landscaping constitutes a prior nonconforming use akin to the circumstances addressed in *Smith v. City of Ketchum,* as discussed by Katie Franklin of Lawson Laski Clark in prior correspondence. The relevant sequence of events is as follows:

1. December 1983 – The CUP-PUD for the Northwood development is approved.
2. 1985 – The developer sells the Property; the CUP-PUD no longer applies. The approved Final Plat recorded against the Property sets forth the conditions governing the Property.
3. 1985-1987 – The Property is issued a building permit, the current residence is constructed, and landscaping is installed in compliance with the requirements of which the owner had record notice.
4. 1989 – The City adopts the 1989 Floodplain Ordinance requiring a 25' riparian setback, rendering any existing landscaping within that setback legally nonconforming.

As a lawful prior nonconforming use, the Property's existing landscaping (much of which has been in place for a quarter of a century) is legally protected. We request City staff withdraw comments on the application requiring enforcement of a 25' riparian setback in a manner that would alter the current landscaping and revise those comments to reflect that the current landscaping may remain. We also note that while we are not subject to the 25' riparian setback, the submitted plans do provide a 5- to 7-foot buffer with native tree and shrub plantings along the location proposed for restoration activities.

The City's prolonged delay in processing this application has exposed the Property and downstream neighbors to serious risk of flooding and has forced our client to incur significant legal expenses to defend its property rights. Further delay is unreasonable and unacceptable. We therefore ask that the City promptly conclude its review and schedule a public hearing on the stream alteration permit at the earliest possible opportunity so that our client may take the necessary steps to protect its property.

Sincerely,

Elizabeth A. Koeckeritz

EAK/DMS
Exhibit
cc: Client
Katie Franklin, Lawson Laski Clark

Exhibit A – Northwood CUP/PUD

CONDITIONAL USE PERMIT - PLANNED UNIT DEVELOPMENT
CITY OF KETCHUM, IDAHO

PERMIT ISSUED TO: Northwood Associates, an Idaho limited partnership, and Northwood, Inc., an Idaho corporation

MAILING ADDRESS: P.O. Box 1440, Sun Valley, Idaho 83353

LEGAL PROPERTY DESCRIPTION: Attached as Exhibit A

PROPERTY ADDRESS: N/A

ZONING DISTRICT: LI, GR-L, and LR DATE APPLIED FOR: May 4, 1983

DESCRIPTION OF CONDITIONAL USE: Planned Unit Development for Northwood PUD as set forth in PUD Development Plan attached hereto as Exhibit B

DATE OF APPROVAL BY CITY COUNCIL: December 19, 1983

CONDITIONS OF APPROVAL: Attached as Exhibit C

THIS CONDITIONAL USE PERMIT - PLANNED UNIT DEVELOPMENT IS HELD BY THE APPLICANT AND IS NON-TRANSFERABLE.

EFFECTIVENESS OF THIS CONDITIONAL USE PERMIT - PLANNED UNIT DEVELOPMENT IS SUBJECT TO COMPLIANCE WITH CONDITIONS STATED ON EXHIBIT C.

ATTEST:

CITY CLERK

PERMIT APPROVED: December 19, 1983

APPROVED BY: City Council and Mayor of City of Ketchum, Idaho

BY: MAYOR

City of Ketchum

ATTACHMENT G

GIVENS PURSLEY LLP
Attorneys and Counselors at Law

601 W. Bannock Street
PO Box 2720
Boise, ID 83701
Telephone: 208-388-1200
www.givenspursley.com

Elizabeth A. Koeckeritz
eak@givenspursley.com
208-388-1250

March 27, 2026

Via Email Only
Morgan Landers, Planning Director
Matt Johnson, City Attorney
City of Ketchum
P.O. Box 2315
Ketchum, ID 83340
mlanders@ketchumidaho.org
mjohnson@whitepeterson.com

RE: Responses to Outstanding Comments

Dear Ms. Landers and Mr. Johnson:

We write in response to Morgan Landers' comment letter dated November 20, 2025, regarding the application for a Stream Alteration Permit for riverbank repairs on property located at 411 Northwood Way (the "Property").

Comment Number	City Comment	Applicant Response
1	Riparian Zone	Revised Sheet L1 dated April 2, 2025 included a line delineating the City's 25-foot riparian setback for informational purposes only. This line has been removed from the most recent plans. As explained in our letter dated January 23, 2026, the Property is not subject to the City's riparian setback requirements.
2	Proposed Riparian Restoration	As discussed in our January 23, 2026 letter, the Property is not subject to the City's riparian setback requirements. Nevertheless, an updated planting plan is provided as Exhibit A. Additional technical responses are included in the QRS Consulting LLC memorandum dated March 16, 2026, attached as Exhibit B. An updated project narrative is attached as Exhibit C.

3	Show no pesticide use within 25 feet of the high water mark.	Applicant agrees to not use pesticides within 25' of the high water mark. See Exhibit A, updated Revised Sheet L1.
4	No mow zone.	Although the Property is not subject to the City's riparian setback requirements, the property owner has agreed to provide a 5–7 foot riparian buffer along the development frontage consistent with City code. This area will remain unmowed.
5	Floodplain specific compliance.	A response to this comment is provided in the QRS Consulting LLC letter (Exhibit B), prepared in response to Harmony Design's letter dated June 5, 2024.
6	Property Owner Permission	Cheryl Howard, who, together with her husband William Howard, owns the property at 421 Northwood (adjacent to the north), is reviewing the most recent version of the plans. We will provide written consent from the Howards for the proposed work on their property prior to the hearing date. In the unlikely event that the Howards fail to provide consent, we will remove their property from the scope of the Project, which will not adversely affect the remainder of the Project.
7	Woody debris	The Applicant requests any additional information received from the Nature Conservancy regarding removal of woody debris from the Community Library property. Per Ms. Landers's February 2, 2026 email, the Applicant understands that the Community Library has declined to approve the removal of the log jam. While removal and redistribution of upstream woody debris may benefit overall stream health, it is not required for the Project. Engineering plans demonstrate the Project's success with or without debris removal. Woody debris removal is contingent upon the Community Library's approval of the same.

In light of these responses, we ask that the City promptly conclude its review and schedule a public hearing on the permit at the earliest possible opportunity.

Sincerely,

Elizabeth A. Koeckeritz

EAK/DMS
Exhibits
cc: Geoff Rusack
Katie Franklin, Lawson Laski Clark

City of Ketchum

ATTACHMENT H

City of Ketchum
Planning & Building

June 14, 2024

Nick Kraus, Project Representative

[Sent via email]

Re: Marsupial Properties Channel Stabilization –Floodplain Development Permit - Completeness Review

Dear Mr. Kraus,

The Planning & Building Department received a floodplain development permit application on May 6, 2024.

The application has been distributed to all city departments for review. Please see below for all comments. While you provided some of the required materials, the following items must be corrected, and revised information must be provided to certify the application as complete:

Planning Department

The following comments are provided for consideration by the applicant. Revisions to the plans are not required, but recommended, unless otherwise noted. If revisions are not made, the following comments will be provided to the Planning and Zoning Commission for their consideration and feedback. Development within the Floodplain Management Overlay District is subject to standards contained within KMC 17.88. As a portion of the residence is located within the SFHA, the entire residence is reviewed against the standards within KMC 17.88.

1. *Comment:* Part of the project occurs on property owned by 421 Northwood Way. Staff will need confirmation that the property owner of 421 Northwood Way approves of the proposed work identified to in the application to occur on their property.
    a. *Required Action:* Please provide notarized written confirmation form property owner of 421 Northwood Way that they support the work identified in the application to occur on their property.
2. *Comment:* The project plans identify a log jam northwest of the subject property that is proposed to be removed. This log jam is on both City of Ketchum and the Community Library properties. Staff has been in conversation with the Community Library to determine if the organization would be supportive of the removal of the log jam but has not received confirmation at this time. Until staff receives conformation from the Community Library that they are supportive of the removal of the log jam, project plans and modeling should not include removal at this time.
    a. *Required Action:* Please remove indication that log jam will be removed from project plans and materials. Staff will update applicant on the status of whether the Community Library is supportive of the removal of said log jam.
3. *Comment:* Per KMC 17.88.050.E.4, "New or replacement planting and vegetation in the riparian zone shall include plantings that are low growing and have dense root systems for the purpose

of stabilizing stream banks and repairing damage previously done to riparian vegetation. Examples of such plantings most commonly include: red osier dogwood, common chokecherry, serviceberry, elderberry, river birch, skunk bush sumac, Beb's willow, Drummond's willow, little wild rose, gooseberry, and honeysuckle. However, in rare instances the distance from the top-of-bank to the mean high water mark is significant and the native vegetation appropriate for the riparian zone are low growing, drought resistant grasses and shrubs. Replacement planting and vegetation shall be appropriate for the specific site conditions. Proposal does not include vegetation within the 25-foot riparian zone that is degraded, not natural, or which does not promote bank stability." Project plans show riparian plantings only extending 5-7 feet from the mean high water mark at this time, leaving the remaining 20 feet to be primarily lawn. Staff understands there are existing encroachments into the riparian zone such as the patio and residence and will not require those to be removed.

    a. *Required Action:* Please update plans to show riparian plantings within the entirety of the 25ft riparian zone throughout the length of the property. Areas where existing improvements (patio and residence) extend into the riparian zone should have riparian plantings planted up to those improvements. This comment applies to the 421 Northwood Way property as well.

4. Comment: Perk KMC 17.88.050.E.18, "Fish habitat shall be maintained or improved as a result of the work proposed." Currently the subject property has a cottonwood tree at the southern end along the bank and the rest of the property contains lawn up to the bank, resulting in little to no shading of the Big Wood River. The proposed landscape plan only shows shrubs and birch tress. Staff does not find the landscaping plan to include enough taller tree species (cottonwoods) in order to provide better shading of the river and improve fish habitat.
    a. Required Action: Please add cottonwood trees to proposed landscape plan to provide better shading of the river, resulting in improved fish habitat.

Fire Department
No comments

Water and Sewer Department
No comments

Streets Department
No comments

City Engineer
No comments

Once revised application information is received, staff will conduct another review to determine if the information provided is sufficient to deem the application complete and public hearing scheduling.

Please do not hesitate to email or call should you have any questions.

Sincerely,

Adam Crutcher
Associate Planner

City of Ketchum

ATTACHMENT I

HARMONY
DESIGN & ENGINEERING

Memo

To: Adam Crutcher, City of Ketchum

From: Jennifer Zung, PE, CFM

CC:

Date: 6/5/2024

Re: Marsupial Properties Bank Stabilization Project, Stream Alteration Permit Review (P20-073)

Per your request, I have reviewed the Stream Alteration Permit for the Marsupial Properties Bank Stabilization Project (SAP No. P20-073) with respect to City of Ketchum municipal code Chapter 17.88, Article 1. Flood Damage Prevention. This review is based on construction plans titled Marsupial Properties Bank Stabilization Project and an accompanying design report by Quadrant Consulting, Inc. dated April 4, 2024.

Bioengineering/Fish and Wildlife Habitat

Ketchum Code 17.88.050(E)18 states that fish habitat shall be maintained or improved as a result of the work proposed. Criteria 19 states that the proposed work shall not be in conflict with the local public interest, including, but not limited to, property values, fish and wildlife habitat, aquatic life, recreation and access to public lands and waters, aesthetic beauty of the stream and water quality.

1. Please increase the density of the proposed willows above the ordinary high-water mark to provide better stabilization, improve fish habitat, and to hide the riprap.

2. Sheet L1 includes notes regarding the use of fertilizer within 20' of the ordinary high-water mark. This should be changed to 25' and fertilizer can only be used if approved by the city arborist.

Long Term Stability

Ketchum Code 17.88.050(E)14 states that the proposal should be a permanent solution and create a stable situation. Additionally, criteria 1 states that the development should not alter the river channel, and the inherent natural characteristics of the river and floodplain areas should be preserved or restored.

18 N. Main, Ste. 305 * PO Box 369 * Driggs, ID 83422
(T) 208-354-1331 (F) 208-354-1332

3. Riprap armoring can increase the velocity and shear forces in the stream and along the bank, causing issues upstream and/or downstream of the installation. Please verify that the proposed bank armoring will not translate the erosion issue to other properties either upstream or downstream of the project site.

4. Verify that there will be no net loss of large woody debris with the project and that the wood will be placed where it will continue to benefit the habitat of the stream.

No Rise Certification and Hydraulic Model

Ketchum Code 17.88.050(E)15 states that the proposed project shall result in no increase to the one percent (1%) annual chance floodplain upstream or downstream.

5. Please provide additional verification of the no-rise condition using the 2013 FEMA Region X publication, *Procedures for "No-Rise" Certification of Proposed Developments in the Regulatory Floodway*. It is recommended that a 1D model be used instead of the 2D model provided so that the analysis is consistent with FEMA's modeling efforts. If the 2D model is used, please provide a map showing the difference in the existing and proposed water surface elevations to demonstrate no-rise to the nearest 0.01-ft at all locations.

6. Please provide a clearer image of the 2D hydraulic model output included in Exhibit C. Also provide a comparison between the existing and proposed conditions.

7. Please confirm how the pre-2017 bank location was determined and if the proposed project is adding any fill or riprap to what was placed in 2023 under the emergency permit.

END OF DOCUMENT

City of Ketchum

ATTACHMENT J

WHITE PETERSON

ATTORNEYS AT LAW

MARC J. BYBEE
MAREN C. ERICSON
WM. F. GIGRAY, III
LINDA C. HALSEY
MATTHEW A. JOHNSON
JACOB M. JONES
WILLIAM F. NICHOLS *
BRIAN T. O'BANNON *

WHITE, PETERSON, GIGRAY & NICHOLS, P.A.
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TERRENCE R. WHITE
OF COUNSEL
WILLIAM F. "BUD" YOST
OF COUNSEL

* Also admitted in OR

January 15, 2025

To: Katie Franklin
Lawson Laski Clark, PLLC
Delivered electronically to krf@lawsonlaski.com

Re: Marsupial Properties – 411 Northwood; 421 Northwood

Dear Katie,

This letter is in response to your July 10, 2024 letter to Adam Crutcher at the City of Ketchum on behalf of your client Marsupial Properties, LLC. The underlying matters have been under discussion for multiple years between the City and your client. For instance, I know there was substantial discussion in the summer of 2022 with Suzanne Frick, City Administrator at the time, including as to key factual differences with your client's property.

The primary purpose of this response letter is to address your further arguments about nonconforming properties, as related to the timing of the City's floodplain ordinance and the *Smith v. City of Ketchum* Decision you provided.

There is a significant difference between the circumstances in *Smith* and the circumstances with your client's property. The lawn at your client's property has never been permitted and has never "been a lawful condition or activity on the property." Your client's property was developed under the Northwood Planned Unit Development and Conditional Use Permit associated with such PUD. That CUP-PUD was approved in December of 1983. In particular, Condition I-E-5(a) of that CUP-PUD specifically prohibits landscaping, fences, or structures within a 25' easement along the river. This condition is repeated in Note 7 of the associated plat map. Those documents are attached for your reference.

Your client's property was approved for a building permit in 1985. There is no record that your client's property was ever excepted from the CUP-PUD conditions or that permission was given for installation of the lawn or other landscaping within the 25' easement. So even though the 1985 development of your client's property may pre-date the 1989 floodplain ordinance, that does not preclude the applicability of the 1983 CUP-PUD and its restrictions.

The lawn is not a lawful nonconforming use and is not within the scope of protection afforded a nonconforming use. There is no "grandfather right" for an unlawful, prohibited use or a violation of conditions. There is no due process right to continue an unlawful use.

The City stands by its comments and previous position with respect to the Stream Alteration Permit review.

Sincerely,

Matthew A. Johnson

City of Ketchum

ATTACHMENT K

CITY OF KETCHUM | PLANNING & BUILDING
Morgan Landers, AICP | Director
direct: 208.727.5085 | office: 208.726.7801
mlanders@ketchumidaho.org
P.O. Box 2315, 191 5th Street West, Ketchum, ID 83340
ketchumidaho.org

11/20/2025

QRS Consulting, LLC
Attn: Nick Kraus
3880 W Americana Terrace, Suite 220
Boise, ID 83706

RE: 411 Northwood Stream Alteration Permit P24-038

Dear Mr. Kraus,

This letter serves as a full and complete record of all unresolved comments to date on the Stream Alteration Permit for 411 Northwood Way, Ketchum, ID 83340 (the "subject property"). To date, the Planning and Building Department has issued one set of comments from city staff and the city's floodplain manager in June 2024. On a call with you, the property owner, and the owner's legal counsel on October 10, 2025, the city noted it would conduct a re-review of the application materials and provide a more complete set of comments as the applicant did not feel that sufficient direction regarding deficiencies of the application were provided.

A revised Sheet L1, dated 4/2/25 was provided to the city on October 20, 2025. Comments below are in response to the initial submittal and the revised Sheet L1. This letter serves as an update to those comments with actions noted to address outstanding items. At this time, the city requests a written response and revised drawings addressing the comments outlined below.

Comment #1: Riparian Zone – As outlined in a letter from White Peterson dated January 15, 2025 (attached), the subject property is part of the Waterways Review District as it contains a riparian zone and is subject to the 25-foot riparian setback as noted in the PUD/CUP and the plat map for the Northwood PUD and Subdivision. The riparian zone and riparian setback are defined in the KMC as follows:

> *Riparian zone: The Waterways Review District includes all parcels containing lands that are within 25 feet of the mean high-water mark as measured horizontally from the mean high-water mark of any waterway. Waterways include the Big Wood River, Trail Creek, and Warm Springs Creek, and any and all channels having year-round or intermittent flow. These lands within 25 feet of the*

mean high-water mark area also known as the riparian zone that is regulated by the City of Ketchum.
Riparian setback: A 25-foot setback measured from the mean high-water mark along the banks of waterways".

Sheet L1 dated April 2, 2025, notes the 25-foot riparian setback correctly.

Required Action: No action required. This comment is for information only.

Comment #2: Riparian Restoration Required – KMC 17.88.050 A.2 states *"When development is proposed in a riparian zone that is located or overlaps with the Floodplain Management Overlay Zoning District a floodplain development permit shall be issued and all riparian zone regulations shall be evaluated and are applicable*". Development is defined by KMC 17.88.040.B.8 as *"Any man-made change to improved or unimproved land, including subdivision, construction activity, alteration of the landscape (except for routine pruning and maintenance of riparian vegetation to benefit the health of the vegetation), its terrain contour or vegetation, including any construction of structures, establishment of a land use, alteration of an existing structure or land use, mining, dredging, filling, grading, paving, excavation or drilling operations, streambank stabilization, placement of manufactured or mobile homes, construction of fences, hedges, berms, walls, or storage of equipment or materials on a temporary or permanent basis".*

As such, the proposed stream alteration work is considered "development" and therefore the floodplain development criteria apply. Criteria #1 outlined in KMC 17.88.050.E *states "The proposal preserves or restores the inherent natural characteristics of the river, floodplain, and riparian zone, including riparian vegetation and wildlife habitat. Development does not alter river channel unless all stream alteration criteria for evaluation are also met".* Additionally, 17.88.050 E.4 states "*New or replacement planting and vegetation in the riparian zone shall include plantings that are low growing and have dense root systems for the purpose of stabilizing stream banks and repairing damage previously done to riparian vegetation. Examples of such plantings most commonly include: red osier dogwood, common chokecherry, serviceberry, elderberry, river birch, skunk bush sumac, Beb's willow, Drummond's willow, little wild rose, gooseberry, and honeysuckle. However, in rare instances the distance from the top-of-bank to the mean high water mark is significant and the native vegetation appropriate for the riparian zone are low growing, drought resistant grasses and shrubs. Replacement planting and vegetation shall be appropriate for the specific site conditions. Proposal does not include vegetation within the 25-foot riparian zone that is degraded, not natural, or which does not promote bank stability".*

Staff does not believe the riparian restoration plan outlined on Sheet L1 to be sufficient for the following reasons:

- The proposed restoration area does not include the full length of the development proposed. Sheet C2 notes that sod damaged by construction will be repaired or replaced per Sheet L1, however, Sheet L1 does not have a specific callout for restoration of this type.
- The 5–7-foot buffer does not meet the 25-foot riparian setback requirement and does not provide for adequate bank stabilization.
- Sheet L1 notes that "shrubs may be pruned to 2 feet at landowner discretion". Within the 25' Riparian Zone all vegetation including planted shrubs should be allowed to grow to maturity. While pruning may retain a viewshed and encourage root growth; mature vegetation allows a better food source and cover for instream fish and a variety of native and migratory wildlife. In addition, the shade of mature shrubs creates microhabitats to encourage understory vegetation to flourish. The riparian area must have a variety of plant species and a high percent land cover of native flora to reduce soil erosion, increase water quality, and eventually provide a viable matrix of vegetative cover types to provide a restored wildlife habitat.
- The project narrative outlines a hydroseed method for seeding forbs and grasses, however, staff is not supportive of this approach due to limited success rates for riparian areas due to small seed size.
- The project narrative and Sheet L1 does not fully describe the planting densities for the shrubs and trees.
- The project proposes to use 2-gallon plants for shrubs, there is concern that this will not be adequate as it is unclear what the exact planting density will be. 2-gallon is common with higher planting densities, but 5-gallon is preferred with lower planting densities.
- The project narrative notes that the plantings may be from the list on Sheet L1 or as recommended by a landscape professional. A planting plan must be approved by the city and no revisions can be made to planting species, densities, or methods without approval of the city prior to installation.
- The proposed plan does not include provisions for temporary irrigation of planting during initial growing seasons.
- The proposed plan does not differentiate between revegetation of disturbed areas outside the 25-foot riparian area from areas within the riparian zone. These areas should be treated as separate and unique revegetation approaches.

Development plans should include the following land area: All lands starting from the ordinary highwater line to the 25' riparian setback line not 5-7'(noted as stream side

buffer zone) or 20'(noted as no fertilizing zone). This should include the rock landscape feature adjacent to the back patio.

> **Required Action:** Please resubmit a planting plan that encompasses the entire 25' riparian setback area to include: the area adjacent to the highwater line along the area disturbed with deep rooted bank stabilizing plants listed in code and a rehabilitation plan for the remaining 25' including no mow zones, native shrubs, and removing and reseeding hardscape. A revegetation plan should include number and name of native riparian species, planting timeframe, temporary irrigation and weed mitigation plans. Willow plantings along the bank shall include a minimum of two staggered rows at a distance of 5 foot on center.

Comment #3: Pesticide Use – KM 17.88.0440 C.3. states "*No use of pesticides, herbicides, or fertilizers will be allowed within 25 feet of the mean high-water mark on any property within the City limits unless approved by the City arborist".*

> ***Required Action:*** Please revise Sheet L1 to note the 25-foot requirement rather than the 20 foot required currently noted.

Comment #4: No Mow Zone

> ***Required Action:*** Please include a note within the restoration plan stating that the entire 25' riparian setback shall be maintained as a "no mow" area. It is important that volunteer species are allowed to flourish unmanaged to naturally fill in the riparian zone and restore it back to a more native habitat area.

Comment #5: Floodplain Specific Criteria Compliance – The letter from Harmony Design and Engineering dated June 5, 2025 (attached) outlines various issues related to the long-term stability of the bank, a no rise certification, and hydraulic modeling. All comments contained in the letter remain.

> ***Required Action:*** Please provide a written response to all comments outlined in the June 5, 2025 letter. Please also provide revised modeling information and a revised project narrative if required. Staff recommends a meeting with Harmony Design and Engineering prior to resubmittal to ensure that all issues are understood and all comments are resolved satisfactorily.

Comment #6: Property Owner Permission – the proposed project includes work on the adjacent 421 Northwood Way property and property owned by the Community Library.

> ***Required Action:*** Please provide written authorization from both property owners for the proposed work.

Comment #7: Woody Debris – The project proposes the removal of a log jam and woody debris to the north of the subject property on City of Ketchum and Community

Library property. A request to remove that woody debris has been made to the Community Library and is currently under review by the Nature Conservancy, but no decision has been made as of the date of this letter. Additionally, the project proposes to disperse woody debris on the Community Library property. This request has not been made to the Community Library.

> ***Required Action:*** No action is required for the request to remove debris at this time. Staff will advise the applicant of any decision by the Nature Conservancy when available. Regarding the dispersement of wood debris on the Nature Conservancy property, the applicant shall prepare a formal request to place debris on the property which includes an analysis of how the placement of debris would enhance the river habitat and promote the conservation values of the Community Library property. This written request will be transmitted to the Community Library for review.

Thank you for your time and attention to these comments. As noted above, the city requests a written response to the comments above. Staff also recommend a meeting scheduled between city staff and your team to review the comments and discuss the best path forward.

Sincerely,

Via e-mail

Morgan Landers, AICP
Director of Planning and Building

CC:
Allison Kennedy, Senior Planner
Matt Johnson, City Attorney