

Henry's Fork Watershed Council Meeting Minutes

March 12, 2024

Introductions and Community Building

Jamie Powell, co-facilitator from the Henry's Fork Foundation (HFF) welcomed everyone to the hybrid meeting. The group went around with introductions and then called for a moment of silence before opening for announcements and community building.

US Army Corps of Engineers: Regulatory Permitting 101

Caleb Williams, US Army Corps of Engineers

The Clean Water Act goes back to 1972. Idaho is in the Northwestern Division of the US Army Corps of Engineers (USACE) -- the Walla Walla District. USACE's regulatory mission is to protect the nation's aquatic resources, while allowing reasonable development through fair, flexible and balanced permit decisions.

Dredge or fill material discharge is regulated in Waters of the US (WOTUS), including some wetlands. On streams and rivers, they regulate up to the ordinary high-water mark. Regulates the obstruction or alteration of navigable waters -- anything that could affect navigability under section 10. Under section 404, regulates discharge of dredge or fill into WOTUS -- replacing any portion of a waterway with dry land or changing the bottom elevation of any portion of a waterway (i.e., culvert, bank stabilization, roads, etc.). No permit needed for mowing wetland vegetation, pure excavation, or cutting timber. Would need a permit for operation of machinery that moves soil.

What does the process look like? There are general permits for smaller projects that cover a lot of common activities like road crossings, trails, and housing developments. Typically, they're in a 30-60-day review target. Larger projects have a much more stringent review process and could take a year. They like to start with pre-application meetings to help with filling out permits, explain steps, and help it run smoothly. Then permit application, including assessing if application is complete, on a water of the US, which permit mechanism is needed, coordinating with partner agencies, compliance with other federal regulations (i.e., NEPA, ESA, NHPA, tribal consultation, etc.) and public notice, then alternatives analysis, public interest review factors, and approval of mitigation plan.

Once a project is authorized, we go into mitigation and there is an order. But that is also after all appropriate and practicable avoidance and minimization has been achieved. One is essentially buying credits at a mitigation bank ("buying it"), but Idaho doesn't have a mitigation bank. Then In-Lieu Fee Program, and finally permittee-responsible mitigation. Lastly, exempt activities include farming and ranching activities (i.e., maintenance, ag ponds, farm roads, etc).

Questions? Caleb.J.Williams@usace.army.mil

Stream Channel Alterations

Katie Gibble, Idaho Dept. of Water Resources

Katie is a stream channel protection specialist with IDWR. Chapter 38 of the Idaho Code outlines legislative intent for stream channel alteration permits, when permits are needed, and enforcement authority. Legislative intent in authorizing these rules is to protect public health, safety, and welfare as well as fish, wildlife, recreation, water quality, aesthetic beauty and habitat. What is a stream channel? A natural watercourse that is continuously flowing. Perennial streams that go dry due to upstream diversion are jurisdictional (i.e., Teton Creek). An alternation is what obstructs, diminishes or destroys a stream channel.

A stream alteration permit is required when natural channel with continuous or perennial flow, any work below the mean high watermark (excavation, fill, debris removal, equipment in channel, etc.). Permitting process includes a joint application for permits with USACE. It's a 4-page application plus diagrams. There is also a great permit application instruction guide that is very helpful. IDWR conducts a 20-day comment period for state agencies after an application is considered complete. They solicit and incorporate comments from neighboring landowners, IDEQ, IDFG, local FEMA floodplain coordinators (P&Z), and other concerned parties like land management agencies, nonprofits, etc. IDFG, for example, does a great job providing comments that benefit fish habitat. After comments, project will receive permit, or applicant will be contacted if comments need to be addressed or doesn't meet minimum standards. It's a joint application, but separate permits (USACE, IDL, and IDWR).

How can Watershed Council help make people aware that they need a permit? Spread the word as a community.

Overview of CWA Section 401 and 402

Alex Bell, Idaho Dept. of Environmental Quality

IDEQ's 401 role: Every federal license or permit that involves discharge into WOTUS, those need to be certified by the state. That's where Alex comes in. Also, applies to FERC licenses. What's the point of Section 401 – for someone at the state to see if the permit can meet the state's water quality standards. A General Water Quality Certification (of the permit), and few that may need an Individual WQC. Examples of conditions – erosion and sediment control, turbidity, in-water work, vegetation protection and restoration, management of hazardous and deleterious materials, etc. Those standards are tied to Beneficial Uses: cold water aquatic life (salmonid spawning), primary/secondary contact recreation, or domestic water supply. Turbidity WQS = shall not exceed background turbidity more than 50 NTU instantaneously or more than 25 NTU over background for 10 days. This is a certification of a permit, so the federal agencies have enforcement discretion and DEQ can go collect info and give it to the USACE, for example.

Regulatory role for discharge = Idaho Pollutant Discharge Elimination System Program (IPDES). These are individual or general permits. Maybe food processing, mines, stormwater, etc. These can be a years long process. Storm Water Permits are further subdivided, one of which is a construction general permit. This is an acre or more that is disturbed by construction activities and would involve erosion and sediment control, pollution prevention, and stabilization. Plus, a storm water pollution prevention plan. Enforcement of the CGP, if the discharges are not meeting applicable WQS or BMPs not installed, and would work with the applicant to take corrective action.

Last Chance Wastewater Treatment Plant

Dave Noel, Forsgren Associates

Started writing a facility planning study in 2021 and have submitted it to IDEQ. New wastewater discharge is no longer a permittable use on public lands. USFS can't give them more space. The county has exceeded permit limitations for hydraulic loading, total coliforms on current discharge permit. This is important because a DEQ land application permit is based on what's on the ground, and are governed by the environmental conditions (alfalfa or pine trees, etc.) to use what you're putting down. To fix the problem, applied for and received ARPA funds to meet mechanical upgrade budget. However, design has to be complete, out to bid, and sign with a general contractor and be done by end of 2026. Also, applied for a discharge permit with IDEQ to discharge into little Blue Creek. Located just off of Chick Creek Road.

In 2017, permit was reevaluated and hydraulic allotment dropped, and have not been able to meet permit since then in non-growing season. Need to get back into compliance. Proposal to improve the quality of water so they can put it into creek. Getting BOD, ammonia, phosphorus, and turbidity down. There is a very large swing from winter to summer in use/load. Existing system is aerated lagoon, clarification, chlorine disinfection, then put on the land. Proposed system will involve everything IDEQ requires to make Class A water. Screening, grit removal, integrated fix film activated sludge process, clarification, filtration, UV disinfection. Proposal to put into Blue Spring Creek, which flows into the Henry's Fork at Last Chance. IDEQ has to look at this as it effects the creek and the river.

Last Chance is current priority for Fremont County, but Mack's Inn is coming up, too and will be quite a bit more expensive.

Fremont County Snowplowing

Brandon Harris, Fremont County

Maintain 800 miles of roadway in summer. Currently plow 400 miles in winter. Also, plow 35 parking lots. In a typical year, go out about 50-60 times. Average cost per plow event is about \$30,000 and each route takes about 9 hours to complete. Fremont County Road and Bridge has 19 employees, 12 graders, 6 sweep trucks, 3 rotaries, and 5 loaders. The mindset has changed in recent years. Folks used to stay in during a snow storm, but now a days, folks expect to be able to go to the grocery store.

Preliminary snowplow considerations include whether or not the roadway is a subdivision (if it is, it's the HOA's responsibility), are there any obstructions 30 feet from the centerline of the road, is there a 100-foot diameter turnaround, or is the roadway a groomed trail?

Just finishing last few steps on Fun Farm Bridge to get it replaced.

Teton County Floodplain Insurance Qualifications

Jade Krueger, Teton County

Still using the old paper maps from 1980s and while it's cumbersome, we do still require compliance with them. Hopefully in a few years, will have digital versions. Still requiring floodplain compliance with requirements there are. Please check with their office with any questions. Would rather have questions ahead of time and help folks through the process. With any questions, Jade and Wendy's email contact info is on the Teton County, Idaho webpage.

Community Building and Wrap Up

Rob – I really appreciate the presentations. Communicating this information with the public is a major motivator for having this meeting and how can we all help each other get the word out on some of this stuff?

Craig – An opportunity for groups to comment. Nationwide permits are issued for 5-year time periods. 2026 is the next reissue. If there is interest in regional conditions, etc. that's an opportunity to chime in.

Alex – that might be a good place to start. To connect when big things that happen. The easiest might be to send out an email to the folks in the room to help each other spread the word when big things come up.

Katie – We agencies really do rely on a bottom up perspective to make communities aware of what permits are required.

Christina – one idea might be writing a press release to local newspapers to share some of the information we talked about today. Need to check permissions.

Will – I've also been mulling this over. IDFG is good about sending out Quarterly Newsletters and that's how he knows about comment periods, etc. If any other agencies might be able to do that?

Alex – for IDEQ, we do have a page, and they keep it updated, but they could look into a notification system.