



Department of
Environmental Quality

Kimberly D. Shelley
Executive Director

DIVISION OF WATER QUALITY
John K. Mackey, P.E.
Director

State of Utah

SPENCER J. COX
Governor

DEIDRE HENDERSON
Lieutenant Governor

Water Quality Board
James Webb, Chair
Michelle Kaufusi, Vice Chair
Carly Castle
Michela Harris
Joseph Havasi
Trevor Heaton
Robert Fehr
Jill Jones
Kimberly D. Shelley
John K. Mackey
Executive Secretary

Utah Water Quality Board Meeting
MASOB
195 North 1950 West
Board Room 1015
Salt Lake City, UT 84116
and
Via [Zoom](#)

January 24, 2024
Board Meeting Begins at 8:30 am

AGENDA

Water Quality Board Meeting – Call to Order & Roll Call

Jim Webb

Minutes:

Approval of Minutes for December 13, 2023 Water Quality Board Meeting

Jim Webb

Executive Secretary Report

John Mackey

Funding:

1. Financial Status Report
2. Board Role in Settlements
3. Sherwood Shores, Southern Utah: ARPA Funding Update
4. City of Virgin, Grant Request, Septic Density GW Study

Adrianna Hernandez
Haley Sousa
Andrew Pompeo & George Meados
Robert Beers

Compliance & Enforcement:

1. RLW Construction Company, LLC, Docket No. M21-15, Request for Approval of Settlement Agreement
2. South Davis Sewer District, North Plant, Docket No. M22-02, Request for Approval of Settlement Agreement

Eric Castrejon
Amber Loveland

Rulemaking:

1. Initiate Rulemaking for HB513 Great Salt Lake Amendments

Jim Harris & Ben Holcomb

Other

1. Approval of Recommendations for Appointment to the Wastewater Operator Certification Council 2024-2027

Judy Etherington & Tessa Scheuer

In compliance with the American Disabilities Act, individuals with special needs (including auxiliary communicative aids and services) should contact Larene Wyss, Office of Human resources, at (801) 536-4281, TDD (801) 536-4284, or by email at lwys@utah.gov at least five working days prior to the scheduled meeting.

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Mailing Address: PO Box 144870 • Salt Lake City, UT 84114-4870
Telephone (801) 536-4300 • Fax (801) 536-4301 • TDD (801) 536-4284
www.deq.utah.gov

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Public Comment Period

Meeting Adjournment

Jim Webb

**Next Meeting
February 28, 2024 at 8:30 am**

**MASOB & Via [Zoom](#)
195 North 1950 West
Salt Lake City, UT 84116**

DWQ-2024-000333



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MINUTES

UTAH DEPARTMENT OF ENVIRONMENTAL QUALITY
UTAH WATER QUALITY BOARD
MASOB, Redrocks Conference Room 3132
and
Via Zoom

December 13, 2023
8:30 am Meeting

UTAH WATER QUALITY BOARD MEMBERS PRESENT

Jim Webb	Jill Jones
Carly Castle	John Mackey
Trevor Heaton	Joe Havasi
Michela Harris	
Mayor Kaufusi	
Robert Fehr	
<u>Excused</u>	
Kim Shelly	

DIVISION OF WATER QUALITY STAFF MEMBERS PRESENT & ONLINE

Emily Cantón	Skyler Davis
Ken Hoffman	Glen Lischeske
Clanci Hawks	Andrew Pompeo
Haley Sousa	Lonnie Shull
George Meados	Judy Etherington
Ben Holcomb	Dave Pierson
Beth Wondimu	Alex Heppner
Linsey Shafer	Jennifer Robinson
Robert Beers	Jeff Studenka
Dan Griffin	
Jennifer Berjikian	
Eric Castrejon	

OTHERS PRESENT & ONLINE

Rob Dubuc
Mayor Paul Erickson
Daniel Hauley
Mayor Jeffren Pei
Ren Lambert
Paul Heinzal
Mayor Stephanie Miller
Angela Pritchett
Justin Lewis
Westin

Mr. Webb, Chair, called the Meeting to order at 8:30 AM.

ROLL CALL

Mr. Webb took roll call for the members of the Board.

APPROVAL OF MINUTES OF October 25, 2023 BOARD MEETING

Mr. Webb moved to approve the minutes of the October 25, 2023 Board meeting.

Motion: Ms. Jones motioned to accept the minutes.
Mr. Heaton seconded the motion.
The motion passed unanimously to approve the October 25, 2023 meeting minutes.

APPROVAL OF 2024 WQ BOARD MEETING SCHEDULE

Motion: All members of the Board reviewed the 2024 meeting schedule and were all in agreement to proceed as noted. In the event a date needs to be changed, that will be addressed as needed.

EXECUTIVE SECRETARY REPORT

Mr. Mackey addressed the Board regarding the following:

- National News:
 - Clean Water Act Section 401 Water Quality Certification Improvement Rule. The final 2023 Clean Water Act Section 401 Water Quality Certification Improvement Rule went into effect on November 27, 2023. The final rule provides stakeholders with a clear and consistent certification process. The 2023 Rule allows time to

collaborate with federal agencies to determine the time frame for review, up to the one-year statutory maximum.

To ensure timely action and negotiation, the 2023 Rule provides a 6-month default timeframe if the certifying authority and federal agency do not agree on a timeframe.

- The State of Louisiana has filed a complaint of the validity of EPA's interpretation of Section 401 of the Clean Water Act. Mr. Mackey noted the State of Utah has not joined the complaint.
 - EPA announces plans for Wastewater Regulations and Studies, including limits for PFAS and a new study for Nutrients.
- State/Division News:
 - The Governor allotted a 20 Million Dollar budget for SRF Funding. Mr. Mackey explained the new Legislative Session is coming up and there are several bills to be discussed that involve the Division of Water Quality, such as requirements for stormwater post construction, as the state has 6600 active permits and 90 or more MS4 Permits.
 - House Bill HB513 went through the informal Public Comment session with numerous comments received from different Environmental Group. A Public Meeting is taking place on December 18, 2023 in Salt Lake City at 6:00pm, in person and online to accept informal comments regarding HB 513 Rules.
 - A number of Audits have taken place this year, mainly focusing on the Great Salt Lake Permits. Audits focus on the Division of Water Qualities performance regarding the permitting processes of the wide variety of permits the division handles. Mr. Mackey touched on the number of Stormwater construction permits, Compliance and Enforcement Actions the Division handles at any given time.
 - Mr. Mackey noted that the State of Utah has had 250 Spills Recorded and 188 of them have been reported since June of 2023.
 - Triennial Review- DWQ is required to review Utah's WQ Standards at least once every three years as required by the Clean Water Act. An Informal Public Hearing will be held on December 14, 2023 in person and online to receive comments.
 - Mr. Mackey touch on the Watershed Assessment of Water of the State. There are 130 Lakes that are monitored for WQ on a regular basis. One-half are sampled during odd numbered years and the other during even. They are sampled twice a year. Mr. Mackey encourages people to take the Water Quality Restoration & Protection Survey. Which can be found at <https://deq.utah.gov/water-quality/take-the-water-quality-restoration-protection-survey>.
 - The Division of Water Quality was awarded \$5,000,000 for the America the Beautiful Grant.
 - The Upcoming Budget has been set, we earn about \$22,000,000 a year, half comes from Federal Government and a quarter from General Funding and the remaining balance comes from fees. Mr. Mackey noted that fees become more and more important. There will be a request for improving the fee process in today's meeting.

- Mr. Mackey wanted to share with the Board that the Division has a “Hall of Fame” award. This year Toby Hooker was the recipient. Toby is an Environmental Scientist III and Chemist, whom has been with the Division for 15 years. Toby has a very important job within the Division, he ensures that proper procedures are followed to import the data of the samples and test results that come into the Division from the Monitors and other entities.

FUNDING

Financial Status Report: Ms. Hernandez presented the financial status report to the Board as indicated in the packet.

Hyrum City Planning Advance: Mr. Meados presented a request for a planning advance in the amount of \$74,900 to develop a Master Plan that will include a capital facility plan

Motion: Ms. Jones motioned to authorize funding in the amount of \$74,900 as a short-term loan with zero percent interest following the conditions in the board packet.

Mr. Heaton seconded the motion.
The motion passed unanimously.

Richmond Planning Advance: Mr. Hoffman & Ms. Wondimu presented a request for a planning advance in the amount of \$99,800 to evaluate their wastewater treatment plant capability to handle the current and future wastewater flows and loads.

Motion: Ms. Jones motioned to authorize funding in the amount \$99,800 as a short-term loan over five years starting three years after completion and following the conditions in the board packet.

Mr. Heaton seconded the motion.
The motion passed unanimously.

Hanksville Supplemental Funding Authorization: Mr. Meados presented a request for supplemental funding in the amount of \$180,000 to complete repairs to their flood damaged wastewater treatment lagoons.

Motion #1: Mr. Heaton motioned to authorize potential forgiveness on the \$36,000 following the conditions in the board packet.
Mr. Havasi seconded the motion.

Motion #2: Mr. Heaton motioned to reauthorize funding in the amount of \$143,400 following the conditions in the board packet.

Ms. Jones seconded the motion.
The motion passed unanimously.

OTHER

Public Hearing for FY25 Fee Schedule Change: Mr. Webb requested motions to open the Public Hearing for comments.

Motion: Ms. Jones motioned to open the Public Hearing for comments.
Mr. Hauvsi seconded the motion. (No roll call vote was required)

Ms. Canton provided the board with a brief explanation of what was being requested for the FY25 Fee Schedule Change and explained that a fee for “Technical review of and assistance given” is currently on the DEQ FY25 Draft Fee Schedule. Mr. Mackey explained to the board that the purpose of the hearing is to inform the public of the upcoming change, no comments will be addressed today. No Public Comments were made during the open comment session. Mr. Webb asked for a motion to close the comment session.

Motion: Ms. Jones motioned to close the comment session.
Mr. Havasi seconded the motion.

PUBLIC COMMENTS

No comments were presented.

MEETING ADJOURNMENT

Motion: Ms. Jones motioned to adjourn the meeting.
Mr. Heaton seconded the motion to adjourn the meeting.

Next Meeting – January 24, 2024
Meeting begins at 8:30 am

In-Person
MASOB
Board Room 1015
195 North 1950 West
Salt Lake City, UT 84116

Via Zoom
<https://us02web.zoom.us/j/7074990271>

James Webb, Chair
Utah Water Quality Board

DWQ-2024-000373

PENDING

HARDSHIP GRANT FUNDS FINANCIAL STATUS REPORT JANUARY 2024

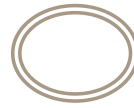
HARDSHIP GRANT FUNDS (HGF)	State Fiscal Year 2024	State Fiscal Year 2025	State Fiscal Year 2026	State Fiscal Year 2027	State Fiscal Year 2028
Funds Available					
Beginning Balance	\$ -	\$ 2,147,896	\$ 2,098,107	\$ 1,996,340	\$ 1,841,866
Federal HGF Beginning Balance (5250)	\$ 3,111,655	\$ -	\$ -	\$ -	\$ -
State HGF Beginning Balance (5265)	\$ 5,521,713	\$ -	\$ -	\$ -	\$ -
Hardship Grant Assessments (5255)	\$ 120,912	\$ 689,765	\$ 657,624	\$ 624,522	\$ 590,676
Interest Payments - (5260)	\$ 64,230	\$ 260,446	\$ 240,609	\$ 221,004	\$ 206,353
Advance Repayments	\$ -	\$ -	\$ -	\$ -	\$ -
Total Funds Available	\$ 8,818,510	\$ 3,098,107	\$ 2,996,340	\$ 2,841,866	\$ 2,638,895
St George Appropriation					
Beginning Balance	\$ 13,066,000				
Authorizations					
St. George Graveyard Wash Res	\$ (13,066,000)				
Total Funds Available	\$ -	\$ -	\$ -	\$ -	\$ -
Financial Assistance Project Obligations					
Big Water-Planning Grant	\$ (28,241)	\$ -	\$ -	\$ -	\$ -
Delta - Design Grant	\$ (200,000)	\$ -	\$ -	\$ -	\$ -
Delta - Short Term Loan	\$ (67,500)				
Dutch John - Planning	\$ (95,000)	\$ -	\$ -	\$ -	\$ -
Dutch John - HGF Loan	\$ (60,000)	\$ -	\$ -	\$ -	\$ -
Eagle Mountain City - Construction Grant	\$ (510,000)	\$ -	\$ -	\$ -	\$ -
Elwood - Planning	\$ (18,200)	\$ -	\$ -	\$ -	\$ -
Hanksville - Design	\$ (2,000)	\$ -	\$ -	\$ -	\$ -
Hinckley Hardship Planning Grant	\$ (15,000)	\$ -	\$ -	\$ -	\$ -
Kanab City Planning Advance	\$ (29,800)	\$ -	\$ -	\$ -	\$ -
Lewiston City - Design and Construction	\$ (460,000)	\$ -	\$ -	\$ -	\$ -
Lewiston City - De-Obligation	\$ 460,000				
Long Valley - Design	\$ (103,700)	\$ -	\$ -	\$ -	\$ -
Millville City - Construction Grant	\$ (1,000,000)	\$ -	\$ -	\$ -	\$ -
Spanish Fork - Hardship Grant	\$ (500,000)	\$ -	\$ -	\$ -	\$ -
Stockton - Planning	\$ (20,000)	\$ -	\$ -	\$ -	\$ -
Spring City - Design Advance	\$ (241,660)				
Non-Point Source/Hardship Grant Obligations					
OSG Cost Share Balances (FY20-21)	\$ (56,000)				
McKees ARDL interest-rate buy down	\$ (55,261)	\$ -	\$ -	\$ -	\$ -
Munk Dairy ARDL interest-rate buy down	\$ (16,017)	\$ -	\$ -	\$ -	\$ -
(FY12) Utah Department of Agriculture	\$ (122,748)	\$ -	\$ -	\$ -	\$ -
(FY15) DEQ - Ammonia Criteria Study	\$ (27,242)	\$ -	\$ -	\$ -	\$ -
(FY17) DEQ - Utah Lake Water Quality Study	\$ (348,301)	\$ -	\$ -	\$ -	\$ -
(FY19) USU - Nutrient Concentrations Paleolimnology of Utah Lake	\$ (4,715)	\$ -	\$ -	\$ -	\$ -
FY 2018 - Remaining Payments	\$ (7,100)	\$ -	\$ -	\$ -	\$ -

HARDSHIP GRANT FUNDS FINANCIAL STATUS REPORT JANUARY 2024

FY 2019 - Remaining Payments	\$ (45,574)	\$ -	\$ -	\$ -	\$ -
FY 2020 - Remaining Payments	\$ (105,175)	\$ -	\$ -	\$ -	\$ -
FY 2021 - Remaining Payments	\$ (109,105)	\$ -	\$ -	\$ -	\$ -
FY 2022 - Remaining Payments	\$ (443,160)	\$ -	\$ -	\$ -	\$ -
FY 2023 - Remaining Payments	\$ (545,569)				
FY 2024 - Remaining Payments	\$ (996,674)				
Future NPS Annual Allocations		\$ (1,000,000)	\$ (1,000,000)	\$ (1,000,000)	\$ (1,000,000)
Authorizations					
Grantsville - Design Advance	\$ (300,000)				
Kane County - Hardship Grant	\$ (200,000)				
Rockville Town - Hardship Grant	\$ (27,172)				
Mt. Pleasant - Hardship Grant	\$ (135,000)				
Richmond - Short Term Loan	\$ (99,800)				
Hyrum - Short Term Loan	\$ (74,900)				
Planned Projects					
Virgin Town*	\$ (60,000)				
Total Obligations	\$ (6,670,615)	\$ (1,000,000)	\$ (1,000,000)	\$ (1,000,000)	\$ (1,000,000)
HGF Unobligated Funds	\$ 2,147,896	\$ 2,098,107	\$ 1,996,340	\$ 1,841,866	\$ 1,638,895

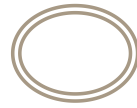
*WQB Agenda Items

Water Quality Board Board Role in Settlements



Haley Sousa
Assistant Attorney General
January 24, 2024

How a Violation Becomes a Settlement



Utah Code § 19-5-104: Powers and Duties of the Board

(3) The board shall:

(a) develop programs for the prevention, control, and abatement of new or existing pollution of waters of the state

How a Violation Becomes a Settlement



Utah Code § 19-5-106: Director – Appointment – Duties

(2) The director shall:

(d) . . . enforce rules made by the board

(k) subject to Subsection 19-5-104(3)(h), settle or compromise any civil action initiated by the division to compel compliance with this chapter or the rules made under this chapter

How a Violation Becomes a Settlement



Utah Code § 19-5-104: Powers and Duties of the Board

(3) The board shall:

(h) to ensure compliance with applicable statutes and regulations:

(i) review a settlement negotiated by the director in accordance with Subsection 19-4-106(2)(k) that requires a civil penalty of \$25,000 or more; and

(ii) approve or disapprove the settlement



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WATER QUALITY BOARD
SOUTHERN UTAH REUSE ARPA GRANT
REAUTHORIZATION

APPLICANT:	Sherwood Shores Delta, Utah 84624
PRESIDING OFFICIAL	No Body Politic Formed
CONTACT:	Adam Richins Millard County Planner (435) 864-1406
TREASURER:	No Body Politic Formed
CONSULTING ENGINEER:	Carson DeMille, Project Manager Jones & DeMille Engineering 1535 South 100 West Richfield, Utah 84701 (435) 896-8266
BOND COUNSEL	None
FINANCIAL ADVISOR	None

APPLICANT'S REQUEST - REAUTHORIZATION

Millard County is requesting the reauthorization of \$595,000 ARPA Grant funding originally authorized during the December 14, 2022 Water Quality Board (Board) Meeting to construct a collection system and wastewater treatment facility for reuse.

APPLICANT'S LOCATION

Sherwood Shores is located on a peninsula in Gunnison Bend Reservoir in Millard County approximately 1 mile west of Delta City boundaries.



PROJECT BACKGROUND

Sherwood Shores Subdivision was created in the 1960s. The subdivision is located on a peninsula of the Gunnison Bend Reservoir. This peninsula has 500 platted lots. Currently, there are approximately 125 onsite (septic) systems with the potential of 375 additional systems. A wastewater feasibility study was developed on August 30, 2023 to assess alternatives to septic systems for the subdivision, but this feasibility study did not meet the EPA's Fiscal Sustainability Plan guidance that was required in the special conditions of the ARPA grant.

PROJECT NEED

Currently, Sherwood Shores does not have a centralized wastewater treatment system. The residents of Sherwood Shores all operate with onsite systems. This project would remove these onsite systems which would reduce contamination into the reservoir from leaching of the individual onsite systems.

ARPA PROJECT FUNDED

In the 2022 legislative session, \$15 million dollars of American Rescue Plan Act (ARPA) grant funds were allocated for “*wastewater reuse projects in Southern Utah with priority for projects that mitigate the impacts of drought on rural communities and the agricultural sector.*” Millard County applied to the Southern Utah Reuse ARPA Grant program. During the December 14, 2022 Board Meeting \$595,000 in funding was authorized for construction of a collection system and membrane bioreactor treatment facility. The treated effluent would be land applied.

BOARD ARPA AUTHORIZATION

The minutes from the December 2022 Board meeting state:

“Sherwood Shores

Motion: Mr. Webb moved that the Board authorize funding in the amount of \$595,000 as ARPA grant funding to the Sherwood Shores Subdivision Body Politic under the following special conditions:

1. The Sherwood Shores Subdivision Body Politic must agree to participate annually in the Municipal Wastewater Planning Program (MWPP).
2. The Sherwood Shores Subdivision Body Politic must develop, commit to adopt, and implement a capital asset management plan that is consistent with EPA’s Fiscal Sustainability Plan guidance.
3. Full funding by September 1, 2023,
4. All users connect to sewer system.

Mr. Gordon seconded the motion. The motion passed with a majority vote of Mr. Webb, Mr. Gordon, Mr. Heaton and Mr. Luers and a nay vote from Mr. Earley.”¹

Sherwood Shores Subdivision Body Politic has not received an ARPA Grant Agreement as the required body politic has yet to be identified. Board special condition #3 has also yet to be met. Thus, at this time staff could not execute an ARPA agreement without a new Board motion.

¹ <https://documents.deq.utah.gov/water-quality/board/2023/DWQ-2023-000955.pdf>

FEASIBILITY REPORT - ALTERNATIVES EVALUATED

Millard County provided the Division with Sherwood Shores Wastewater Feasibility Report (Report) on September 26, 2023. The Report evaluated four alternatives:

1. Installing a septic tank effluent pumping (STEP) system for primary treatment and a Membrane Bioreactor for secondary treatment at a secondary site for the wastewater. This includes replacing all septic tanks and installing effluent pumps.
2. Installation of a STEP system by retrofitting existing septic tanks to send wastewater to a centralized treatment plant that uses a fixed film reactor to treat the wastewater.
3. Construction of a centralized membrane bioreactor treatment plant. This would include the abandoning of existing septic systems and replacing them with individual sewer grinder pumps that will pump the wastewater from each home into a pressurized transmission line to the membrane bioreactor.
4. Installation of individual membrane bioreactor systems at each household. The filtered wastewater would then be piped into a collection system to be discharged into the reservoir.

The table below outline the cost breakdowns of each alternative for 250 connections.

Table 1: Summary of Alternatives

Alt #	Private Property Work	General Construction	Centralized Treatment	Contingency	Engineering	Total
1	\$1,260,000	\$1,059,000	\$867,000	\$800,000	\$675,000	\$4,661,000
2	\$1,037,000	\$1,008,000	\$867,000	\$728,000	\$635,000	\$4,275,000
3	\$5,537,500	\$3,529,500	\$1,750,000	\$2,704,000	\$2,385,000	\$15,906,000
4	\$9,952,000	\$0	\$0	\$2,488,000	\$1,965,000	\$14,405,000

Each alternative contains significant work on private property these expenses will need a deeper review for eligibility under Clean Water State Revolving Fund (CWSRF) requirements. In many cases these costs are the home owner’s responsibility to complete. In addition, instead of reuse by land application the Report proposes discharge of treated effluent to the Gunnison Bend Reservoir as reuse. Further, any approval of a water reuse project requires State Engineer approval prior to approval by the Director of Division of Water Quality (DWQ).

Finally, the Report’s focus was only on reuse alternatives and to be eligible for additional CWSRF funding assistance all alternatives must be analyzed such as construction of a sewer line and connection to an existing treatment plant.

PROJECT DESCRIPTION

No alternative has been selected at this time as no body politic has formed to recommend an alternative.

POPULATION GROWTH

Based on the 125 onsite systems in Sherwood Shores an average of 3.5 people per household was used to determine the population of 439 people. According to the State’s projections the Town of Delta has a growth rate of 8.2% from 2010 to 2020. This results in a build out population for Sherwood Shores of 556 people in 2050.

Year	Population
2020	439
2040	514
2050	556

PUBLIC PARTICIPATION AND DEMONSTRATION OF PUBLIC SUPPORT

Millard County is working with Sherwood Shores to develop a body politic.

EFFORTS TO SECURE FINANCING FROM OTHER SOURCES

At this time full funding has not been secured and there have not been additional efforts to secure financing from other sources.

IMPLEMENTATION SCHEDULE

All infrastructure projects funded by the Water Quality Board have ARPA agreements which include the following special condition:

“The Grantee must secure an approval to award from the Division prior to signing the construction contract.”

All agreements must be signed by December 31, 2024 or funding will be lost and returned to the Federal Government. Staff evaluated the possible feasibility of the proposed project to allow a reauthorization. The following schedule was drafted:

1. **April 1, 2024; Submit UPDES Permit Application to the DWQ.** (if needed)
 - a. UPDES permit applications are due 6 months prior to a Director action.
 - b. Construction permits cannot be issued until permitting is complete.
2. May 1, 2024; Submit Capital Facilities Plan to the DWQ.
3. May 15, 2024; Submit Design Advance Application and proof of a formed body politic to the DWQ.
4. June 26, 2024; Attend the Board Meeting for the Design Advance Application.
5. July 1, 2024; Submit a funding application to the DWQ.
6. July 15, 2024; Submit a passed sewer rate resolution.
7. August 1, 2024; Submit stamped plans and specifications to the DWQ.
8. October 1, 2024; DWQ issues Construction Permit
9. October 15, 2024; bid project
10. December 15, 2024; Attend the Board Meeting for any required supplemental funding.

APPLICANT'S CURRENT USER CHARGE

Currently, Sherwood Shores does not have any user fees as they have not developed a body politic. Sherwood Shores is located near Delta. Therefore, the City of Delta was used to determine the MAGI (\$47,900). Thus, for principal forgiveness the month rate would have to exceed \$55.88 per month per ERU.

COST SHARING FOR CAPITAL FACILITIES PLAN

Cost sharing is not being considered at this point of the project.

STAFF COMMENTS

Staff is concerned if a viable project exists. In addition, the alternative for connection to the Delta or Hinkley wastewater treatment plants would not be eligible for the ARPA funding. Staff understands Sherwood Shores is currently connected to Delta's culinary water system.

Sherwood Shores is an unsewered community so as a CWSRF project has good potential and historically the Board has supported pursuit of construction of collection systems in unsewered communities.

The best way to plan for the future would be to extend the Wastewater Feasibility Study to a comprehensive Capital Facility Plan including a cost-effective analysis that reviews the installation of a treatment system along with a review of construction of a collection system to connect to a Delta City or Hinkley City's wastewater treatment plant. Jones and Demille Engineers provide a quick estimate of \$40,000 to complete this work.

Staff encouraged Millard County to submit a Planning Advance Application but it was not able to be completed in time for the January meeting. If the Board supports the approach Millard County could reappear during the February 2024 Board meeting.

RECOMMENDATION

Staff recommends the Board reauthorize funding in the amount of \$595,000 as ARPA grant funding to the Sherwood Shores Subdivision Body Politic under the following special conditions:

1. The Sherwood Shores Subdivision Body Politic must agree to participate annually in the Municipal Wastewater Planning Program (MWPP).
2. The Sherwood Shores Subdivision Body Politic must develop, commit to adopt, and implement a capital asset management plan that is consistent with EPA's Fiscal Sustainability Plan guidance.
3. Full funding secured by the end of the December 15, 2024 Board meeting.
4. All users connect to sewer system.
5. No later than by May 1, 2024 Millard County shall submit a complete Capital Facilities Plan to DWQ.
6. No later than by May 15, 2024 evidence of the formation of the Sherwood Shores Subdivision body politic shall be submitted to DWQ.
7. No later than July 15, 2024; Sherwood Shores Body Politic shall submit a sewer rate resolution.
8. No later than August 1, 2024, the Sherwood Shores body politic shall submit stamped plans and specifications for construction of the preferred alternative to DWQ.



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**WATER QUALITY BOARD
REQUEST FOR HARDSHIP PLANNING GRANT TO
PREPARE GROUNDWATER QUALITY STUDY
AUTHORIZATION**

APPLICANTS:

Town of Virgin
PO Box 790008
Virgin, Utah 84779
(435) 635-4695

PRESIDING OFFICIAL

Jean Krause, Mayor
(435) 635-4695
jkrause@virgin.utah.gov

TOWN TREASURER:

Leroy Thompson, Treasurer
(435) 635-4695 Office
(509)-961-9973-Mobile
treasurer@virgin.utah.gov

ENGINEER CONSULTANT:

Joseph K. Phillips, PE
Sunrise Engineering
11 North 300 West
Washington, Utah 84780
(435) 215-1915
jphillips@sunrise-eng.com

TOWN ATTORNEY:

Heath Snow, Esq.
Snow Caldwell Beckstrom & Wilbanks
(435) 656-1900
heath@scbwlaw.com

APPLICANT'S REQUEST

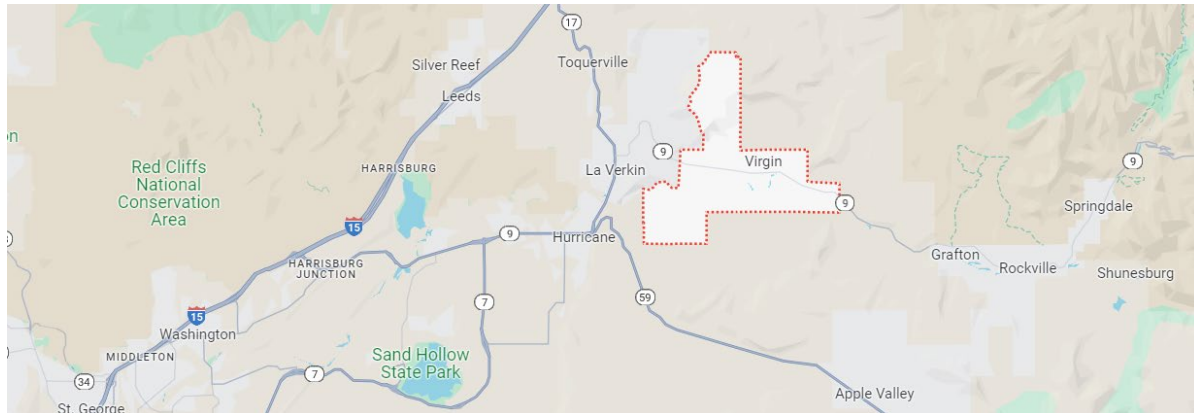
Virgin Town requests a **hardship planning grant in the amount of \$60,000** to conduct a hydrologic / water quality study within the town boundaries to determine sewage management recommendations, allowable onsite (septic) system types, septic system densities, potential impact of development and increased wastewater on groundwater quality, and to serve as a basis for planning future development and growth. Virgin Town has received supporting funding from the

Virgin Town Request for Planning Grant
January 24, 2024

Washington County Water Conservancy District, the culinary water utility for much of Washington County.

APPLICANT'S LOCATION

Virgin, Utah is located in Southwest Utah in Washington County. The county location and study area are shown in the figure below.



BACKGROUND

Virgin Town has a population of approximately 670 residents in 222 housing units. Numerous large underground wastewater disposal systems are also present and planned in the near future, due to the tourist industry prevalent in the immediate area around the town. Virgin Town has had an increased population of more than 12% since 2010. The median adjusted gross household income (MAGI) for the study area is \$47,100¹ as compared with \$51,600 for the state of Utah.

Virgin does not have sewer service available within its town boundaries. There has been an increasing demand to build new subdivisions within the incorporated area of Virgin Town. Current zoning ordinances allow 1-acre residential lots. Town elected and culinary water utility officials have become concerned with the number of onsite systems that potentially could be installed in this area. Allowing uncontrolled development in this area could potentially result in an excess of septic systems in an area that has limited water resources and where surface waters are relied on for downstream culinary utilities.

In addition, “the Town is receiving considerable interest from parcel owners and developers relative to the possibility of increasing the allowable septic density. The Town now desires to prepare a groundwater protection study that will evaluate the impact of septic tanks, including a **potential increase in septic density**, on the groundwater in the river system.”² Development pressures have created a growing local effort from developers to get a sewer line constructed to connect Virgin to Ash Creek Special Service District (SSD). Currently, any impacts of

¹ Data retrieved December 6, 2023, from the Web site: <https://deq.utah.gov/drinking-water/magi-by-city>

² Virgin Town Groundwater Protection Study. Supplemental Document for: Non-Point Source Information and Education Financial Assistance Application.

groundwater in the Virgin River are above the Sand Hollow drinking water intake structure. If the Town were connected to Ash Creek SSD a discharge would be below the Sand Hollow intake structure.

The purpose of this study is to provide data and ground water modeling to assess ground water conditions and quality, accounting for growth and land use transition that is projected to occur in the study area. Results from the study will inform the town officials, culinary utility administrators, and the public about impacts to ground water from land use activities and protections in place. The study results and model will enable the town to assess the effectiveness of their current land use management strategies (e.g., zoning and ordinances) in protecting ground water quality and provide a basis for updating these strategies.

PROJECT DESCRIPTION

The proposed study will be conducted in three phases that are outlined below. The Town of Virgin has hired Sunrise Engineering as their engineering consultant to perform this study.

The study includes the following major tasks and deliverables:

- Phase 1
 - Review existing information
 - Site assessment
 - Planning sample collection locations
- Phase 2
 - Hydrogeologic characterization
 - Conduct water sampling
 - Perform sample analyses
 - Hydrogeologic modeling
- Phase 3
 - Report development
 - Conclusions, including septic system density recommendations
 - Peer review
 - Public engagement
 - Distribution of findings
 - Prepare course of action (e.g. zoning and planning ordinances)

IMPLEMENTATION SCHEDULE

The study will begin once funding is procured. Field investigations will be conducted through spring of 2024. Phase 3 is expected to be completed in late 2024.

PROJECT PRIORITY LIST

A construction project is not anticipated at this time; therefore, the study is not given a priority listing. The study results are expected to inform decision makers for community planning, including the impacts that the community and its growth have, e.g., by septic tank densities, on groundwater quality and on surface water used as a source for downstream culinary utilities.

COST ESTIMATE

The study cost is estimated to be \$120,000. The phased project costs are broken down below.

Funding Administration	\$ 5,000
Groundwater Protection Study	\$ 108,700
Water Sampling and Laboratory Fees	\$ 6,300
Total	\$ 120,000

COST SHARING

Virgin Town has received supporting funding from the Washington County Water Conservancy District (see letter of support attached to the application). These entities are committed to completing the project but are requesting additional support from the Water Quality Board to do so. The proposed breakdown for cost sharing is as follows:

Virgin Town	\$ 20,000
Washington County Water Conservancy District	\$ 40,000
Water Quality Board Grant	\$ 60,000
Total	\$ 120,000

ELIGIBILITY REIEW

The study evaluated for eligibility for funding as a nonpoint source (NPS) project under Utah Administrative Code (UAC) R317-101-7.k. as “a study, activity, or mechanism that abates, prevents or reduces water pollution.” Staff is concerned, if the study results in an allowable lot size of less than 1 acre if this would qualify as a reduction in water pollution and be eligible for funding. Typically, ground water studies are funded when no septic density standard exist in an area and lot sizes have been set using Table 1.1 from UAC R317-4-13 for lot sizes between 12,000-20,000 sq ft. UAC R317-101-7. is the State Rule which the Board has full discretion to interpret? As the study could result in reduction of water pollution staff believes the study is eligible but may not deserve grant consideration depending on the results of the study.

STAFF COMMENTS

Staff is concerned if the groundwater study were to result in a reduction in lot size then the collaborative efforts to construct a sewer line to Ash Creek SSD might disappear. This would potentially result in a decrease in water quality of the Virgin River. This study is a critical project for the Town of Virgin to assess and develop decision making tools and policies toward control of nonpoint source pollution of groundwater that flows to the Virgin River watershed area.

STAFF RECOMMENDATION

This project is being presented as an authorization request to the Water Quality Board. Due to eligibility concerns the Board may wish to consider funding the study as an unsecured loan with a

Virgin Town Request for Planning Grant
January 24, 2024

special condition for loan forgiveness or with a requirement for reappearance for grant consideration. Staff have prepared two draft motions for the Board's consideration. The Short Term Loan Motion includes two alternative loan forgiveness grant conditions.

GRANT MOTION

The Board authorize \$60,000 funding to the Town of Virgin as a NPS hardship grant subject to the following special conditions:

1. The Division of Water Quality must approve the engineering agreement and plan of study before the grant agreement will be executed.
2. The Town of Virgin must provide an informational presentation of the study results and recommendations to the Water Quality Board within one year following the project completion.
3. This is a grant and will not be repaid.

SHORT TERM UNSECURED LOAN MOTION

The Board authorize \$60,000 to the Town of Virgin as a short-term unsecured loan with an interest rate of 0% repayable over 5 years under the following special conditions:

1. The loan will be repaid in five annual installments with repayments beginning in 2027.
 2. The Division of Water Quality must approve the engineering agreement and plan of study before the grant agreement will be executed.
 3. The Town of Virgin must provide an informational presentation of the study results and recommendations to the Water Quality Board within one year following the project completion.
 4. Grant condition:
 - a. If the study results in the Town increasing the required lot size to more than 1 acre before 2027 then the loan will be forgiven as a grant and will not be repaid.
- OR**
- b. The loan will be evaluated for forgiveness following the Special Condition #3 informational presentation of the study results to the Water Quality Board.



State of Utah

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Department of
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Kimberly D. Shelley
Executive Director

DIVISION OF WATER QUALITY
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Executive Secretary

MEMORANDUM

TO: Water Quality Board

THROUGH: John K. Mackey, P.E., Director

FROM: Eric Castrejon, Environmental Scientist III

DATE: January 24, 2024

SUBJECT: Request for Approval of Administrative Settlement Agreement
Ralph L. Wadsworth Construction Company, LLC Docket No. M21-15

The Utah Water Quality Act, Utah Code Section 19-5-104(3)(g) requires any settlement negotiated by the Director with a civil penalty of \$25,000 or more must be reviewed and approved or disapproved by the Utah Water Quality Board. The Division is requesting Board approval to execute a settlement with Ralph L. Wadsworth Construction Company, LLC.

Ralph L. Wadsworth Construction Company, LLC is a domestic limited liability company doing business in Draper, Utah and is legally responsible for the operation of the construction project I-80; 1300 E to 2300 E I-215; 3300 S to 4500 S (Project Site).

On July 29, 2021 an unauthorized discharge of concrete slurry into Mill Creek occurred as a result of construction activities at the Project Site. Ralph L. Wadsworth Construction Company, LLC quickly responded upon incident discovery and contracted Clean Harbors Clive, LLC to contain and remediate the surface water contamination. The remediation of contaminated creek bed soils due to the deposited concrete slurry was completed on August 27, 2021.

In response to the release, the Director issued a Notice of Violation and Compliance Order (NOV/CO), Docket No. I21-15, to Ralph L. Wadsworth Construction Company, LLC on October 06, 2021. On November 01, 2021 it was determined that Ralph L. Wadsworth Construction Company, LLC timely complied with the requirements of the NOV/CO.

On January 26, 2022, a subsequent unauthorized discharge of sediment into Mill Creek occurred as a result of construction activities at the Project Site.

The Administrative Settlement Agreement (ASA) formally resolves the violations identified in the NOV/CO as well as the subsequent discharge on January 26, 2022.

The terms of the financial settlement are as follows:

Penalty	\$76,500.00
Administrative Cost Reimbursement to DWQ	\$21,559.95
Environmental Damage Cost Reimbursement to DNR/DWR	\$19,184.00
Total Civil Penalty due:	\$117,243.95

The public comment period for the proposed ASA ran from December 05, 2023 to January 05, 2024 (<https://www.utah.gov/pmn/sitemap/notice/876885.html>). No comments were received.

The proposed ASA represents what the Division believes to be a fair and reasonable settlement. It is the Division's recommendation that this settlement be granted Board approval for execution by the Director.

**UTAH DEPARTMENT OF ENVIRONMENTAL QUALITY
DIVISION OF WATER QUALITY**

IN THE MATTER OF:

RALPH L. WADSWORTH
CONSTRUCTION COMPANY, LLC
UPDES Permit No. UTRC02565

**ADMINISTRATIVE SETTLEMENT
AGREEMENT**

Docket No. M21-15

This Administrative Settlement Agreement (“Settlement”) is entered into voluntarily by and between the Director of the Utah Division of Water Quality (“Director”), under the Director’s legal authorities described below, and Ralph L. Wadsworth Construction Company, LLC (“RLW”) in its capacity as the operator legally responsible for the operation of I80; 1300 E to 2300 E & I-215; and 3300 S to 4500 S located in Salt Lake County (“Project”), jointly referred to hereinafter as “the Parties.” By entering into this Agreement, the Parties wish, without further administrative or judicial proceedings, to stipulate to civil penalties and associated administrative costs arising out of alleged violations of the Utah Water Quality Act, Utah Code §§ 19-5-101 through 19-5-126 (the “Act”); corresponding regulations in the Utah Admin. Code R317-1-1 through R317-801-6 (“Water Quality Rules”); and R305-7-101 through R305-7-611.

1. The Director has authority to administer the Act pursuant to Utah Code § 19-1-105(1)(e) and to enforce the Water Quality Rules in Utah Admin. Code R317 through the issuance of orders, as specified in Utah Code §§ 19-5-106(2)(d) and -111. The Director also has authority to settle any civil action initiated to compel compliance with the Act and implementing regulations pursuant to Utah Code § 19-5-106(2)(k).
2. RLW is a “person” as that term is defined in Utah Code § 19-1-103(4).
3. For the purposes of this Settlement, the Parties agree to and stipulate to the findings and violations identified in the Notice of Violation and Compliance Order Docket No. M21-15 (“NOV/CO”) issued on October 6, 2021, and as described below.
4. The following paragraphs are an account of additional impacts and actions that occurred after the issuance of the NOV/CO.
5. For the purposes of this Settlement, the Parties agree to and stipulate to the findings and violations associated with the turbidity incident that occurred on January 26, 2022, as further described below.
6. In response to the NOV/CO, RLW submitted “*NOV/CO, Docket No. M21-15; DWQ-2021-020450 Response*” on November 01, 2021 (“Report”). The Report complied with the requirements in the NOV/CO to the Director’s satisfaction.

7. The Report documents that bulkheads were not installed per quality control procedures identified in the Cellcrete Submittal Package that RLW provided to the Division on July 31, 2021. It was determined that this led to the illicit discharge of concrete slurry to Mill Creek that occurred on July 29, 2021.
8. In Attachment C of the Report ("*Ralph L. Wadsworth Mitigation and Restoration Efforts*"), RLW states daily cleanup efforts were conducted from July 29, 2021 to August 4, 2021.
9. On August 04, 2021, the Division of Water Quality ("Division") inspected areas of Mill Creek impacted by the release and observed remnants of the released material (concrete slurry) within the creek, located behind a private residence along Millcreek Canyon Road. The Division requested that the remaining material be removed.
10. On August 12, 2021 and August 24, 2021, RLW was notified of additional observed concrete slurry within Mill Creek. RLW responded with additional mitigation efforts on August 12, 2021 and August 24, 2021 through August 27, 2021.
11. On July 30, 2021, through an incident hotline established by Utah Department of Transportation ("UDOT"), RLW was notified of additional locations within Mill Creek where the released concrete slurry material was observed. The hotline was created to document and communicate concerns from the general public regarding the illicit discharge of concrete slurry. The hotline received the following reports between July 30, 2021 and August 05, 2021 regarding the illicit discharge of concrete slurry:
 - a. Three calls reporting observed fish kill along Mill Creek over a three-day period.
 - b. One call of a canine becoming ill after drinking water from Mill Creek.
 - c. One call reporting chemical burns a child developed after playing in Mill Creek on July 29, 2021.
12. RLW conducted mitigation and restoration efforts in Mill Creek to recover the released concrete slurry over a total of 30 calendar days.
13. RLW timely complied with the requirements in the NOV/CO to the Director's satisfaction, such that no further remedial action to address the violation is necessary.
14. On January 26, 2022, the Division received verbal notification of discoloration and turbidity in Mill Creek near a storm sewer outfall located at approximately 3612 Virginia Way, Salt Lake City, UT 84019. A report for this notification was entered into the Utah Department of Environmental Quality Environmental Incidents Database and assigned incident number 15397.
15. At approximately 12:30 pm on January 27, 2022, Division representatives inspected the Project. During this inspection, RLW verbally reported to the Division that the 8-foot culvert located under I-215 was punctured during vertical drilling operations as part of the

Project. Potable water was then used by RLW to clean the drill hole by flushing out the sediment which was then discharged through the culvert and into Mill Creek.

16. The Parties voluntarily enter into this Settlement to resolve the violations identified both in the NOV/CO as well as this Settlement without the necessity of further administrative or judicial proceedings.
17. RLW agrees to pay a civil penalty in the amount of **\$117,243.95**, based on the Division's application of the penalty policy outlined in Utah Administrative Code R317-1-8.
18. This Settlement and penalty are subject to a thirty (30) calendar day notice and comment period. The Parties each reserve the right to withdraw from this Settlement if comments received during the notice period result in a modification to the terms and conditions.
19. This Settlement will be final after the thirty-day notice and comment period, on the date the Director signs the Settlement.
20. RLW agrees that within thirty (30) calendar days of receiving the signed and final Settlement from the Director, RLW shall submit payment in the amount specified in paragraph 12 above, using one of the following methods:
 - a. CHECK – Payable to the Division of Water Quality. The payment shall be sent to:

Division of Water Quality
PO Box 144870
Salt Lake City, Utah 84114-4870
 - b. OTHER – For other available payment options, please contact the Division of Water Quality Finance staff at eqwqfinance@utah.gov
21. RLW agrees that if it fails to make the required payment within thirty (30) calendar days of receiving the signed and final Settlement from the Director, the Director reserves the right to rescind the Settlement and seek the full penalty amount authorized under the Act, currently authorized at \$10,000 per violation per day.
 - a. Prior to rescinding the Settlement, the Director shall provide written notice to RLW of its default and will provide fourteen (14) calendar days to cure the default. If payment is not received within the fourteen (14) calendar day default period, the Director is authorized, without providing written notice to RLW, to begin a civil action for all appropriate relief provided under the Act, including seeking the full penalty amount authorized under the Act.
22. RLW agrees to the terms, conditions and requirements of this Settlement. By signing this Settlement, RLW understands, acknowledges and agrees that it waives: (1) the opportunity for an administrative hearing pursuant to Utah Code § 19-1-301; (2) the right to contest the finding(s) in the NOV/CO; and (3) the opportunity for judicial review.


23. The Parties mutually agree that this Settlement is entered in good faith and is an appropriate means to resolve the matters specified herein.
24. The violations described herein will constitute part of RLW compliance history where such history is relevant, including any subsequent violations. RLW understands and agrees that this Settlement is not and cannot be raised as a defense to any other action to enforce any federal, state or local law.
25. This Settlement, when final, is binding upon RLW and any corporate subsidiaries or parents, their officers, directors, employees, successors in interest, and assigns. The undersigned warrants that it is authorized to legally bind their respective principals to this Settlement.

FOR THE UTAH DIVISION OF WATER QUALITY

By: _____
John K. Mackey, P.E.
Director, Utah Division of Water Quality

Date: _____ (Effective Date)

FOR RALPH L. WADSWORTH CONSTRUCTION COMPANY, LLC

By:  _____
Title: Project Manager
Date: 12/1/2023



State of Utah

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Department of
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Executive Director

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John K. Mackey
Executive Secretary

MEMORANDUM

TO: Water Quality Board

THROUGH: John K. Mackey, P.E., Director

FROM: Amber Loveland, Compliance & Enforcement Section

DATE: January 24, 2024

SUBJECT: Request for Approval of Settlement Agreement
South Davis Sewer District – North Plant Docket No. M22-02

The Utah Water Quality Act, Utah Code Section 19-5-104(3)(g) requires any settlement negotiated by the Director with a civil penalty of \$25,000 or more must be reviewed and approved or disapproved by the Utah Water Quality Board.

South Davis Sewer District (SDSD) operates the North Treatment Plant (North Plant) located in West Bountiful, Utah which is authorized to discharge into the State Canal and to the Farmington Bay Waterfowl Management Area through UPDES Permit No. UT0021636 (Permit). The SDSD serves the southern portion of Davis County, this includes residential, commercial, and industrial users in Bountiful, Centerville, North Salt Lake, West Bountiful, and Woods Cross. The North Plant has had ongoing effluent exceedances, mainly of Ammonia [as N] since 2021, resulting in the issuance of a compliance schedule requiring upgrades to the Facility wastewater treatment system (to be completed by August 1, 2026.)

Between the monitoring period of December 2020 and August 2022, SDSD North Plant violated the Permit's Total Ammonia Monthly Maximum effluent limitation on seven (7) occasions, the Total Ammonia Daily Maximum limitation on seven (7) occasions, the Dissolved Oxygen Daily Minimum limitation on one (1) occasion, and the Total Residual Chlorine Daily Maximum limitation on one (1) occasion. This resulted in the issuance of Notice of Violation, Docket No. M22-02 on October 20, 2022.

Since the issuance of NOV/CO M22-02, SDSD North Plant has continued to violate effluent limitations set by their permit and compliance schedule. The following violations have occurred between October 2022 and November 2023: three (3) Total Ammonia Monthly Maximum effluent limit exceedances, the most recent being in November 2023, and eight (8) Total Ammonia Daily Maximum effluent limit exceedances, the most recent was in November 2023.

The negotiated civil penalty for NOV/CO M22-02 is \$80,000.00 as specified in the Stipulated Compliance Order (SCO). As effluent exceedances have been ongoing following the issuance of the NOV/CO and are anticipated to continue prior to completion of the Facility upgrades, it was agreed that in addition to the negotiated settlement SDSD will pay \$7,000.00 for each Total Ammonia Daily Maximum exceedance, \$3,500.00 for each Total Ammonia Maximum Monthly Average exceedance as well as for each Total Ammonia Maximum Monthly Load exceedance, and \$2,000.00 for each occurrence of all other Permit effluent limit exceedances that occur between October 13, 2023 and September 1, 2026.

Attached for your reference is the proposed, and partially signed, SCO Docket M22-02.

The terms of the financial settlement are as follows:

NOV/CO M22-02:

Total Civil Penalty	\$73,043.00
Administrative Cost Reimbursement to DWQ	\$6,957.00
Total	\$80,000.00
Future Total Ammonia Daily Max violations	\$7,000.00
Future Total Ammonia Max Monthly Average violations	\$3,500.00
Future Total Ammonia Max Monthly Load violations	\$3,500.00
Future violations of other effluent limits	\$2,000.00

The public comment period for the proposed SCO will run from December 20, 2023 to January 22, 2024 ([https://deq.utah.gov/public-notices-archive/water-quality-public-notices.](https://deq.utah.gov/public-notices-archive/water-quality-public-notices))

The proposed SCO represents what the Division believes to be a fair and reasonable settlement. It is the Division's recommendation that this settlement be granted Board approval for execution by the Director.

**UTAH DEPARTMENT OF ENVIRONMENTAL QUALITY
DIVISION OF WATER QUALITY**

IN THE MATTER OF:

South Davis Sewer District

North Treatment Plant
1800 West 1200 North
Bountiful, UT 84087
Permit No. UT0021636

STIPULATED COMPLIANCE ORDER

Docket No. M22-02

This Stipulated Compliance Order (“Agreement” or “Order”) is entered into voluntarily by and between the Director of the Utah Division of Water Quality (“Director”), under the Director’s legal authorities described below and South Davis Sewer District (“SDSD”) in its capacity as the operator who is legally responsible for the operation of the North Treatment Plant (“Facility”), jointly referred to hereafter as “the Parties.”

By entering into this Agreement, the Parties wish, without further administrative or judicial proceedings, to establish compliance requirements and stipulate to civil penalties arising out of alleged violations of the Utah Water Quality Act, Utah Code §§ 19-5-101 through 19-5-126 (the “Act”), and corresponding regulations in the Utah Admin. Code R317-1-1 through R317-801-6 (“Water Quality Rules”) and Utah Admin. Code R305-7-101 through R305-7-611.

STATUTORY AND REGULATORY AUTHORITY

1. The Director has authority to administer the Act pursuant to Utah Code § 19-1-106(2)-(3), and to enforce the Water Quality Rules in Utah Admin. Code R317 through the issuance of orders, as specified in Utah Code §§ 19-5-106(2)(d) and -111. The Director also has authority to settle any civil action initiated to compel compliance with the Act and implementing regulations pursuant to Utah Code § 19-5-106(2)(k).

FACTS AND FINDINGS

The Director relies upon the following Facts and Findings for purposes of this Agreement:

1. SDSD is a “person” as that term is defined in Utah Code § 19-1-103(4).
2. For the purposes of this Agreement, the Parties agree to and stipulate to the findings and violations identified in the October 20, 2022 Notice of Violation and Compliance Order (“NOV/CO”), Docket No. M22-02, and as described below.

3. On November 18, 2022, SDSD provided a response to the NOV/CO, Re: Report Required by Notice of Violation Docket No. UT0021636 (“M22-02 Response”). M22-02 Response identifies an erroneous violation in the NOV/CO: The August 2022 Total Ammonia Monthly Maximum lists the effluent limit as 5.5 mg/L but Permit No. UT0021636 (“Permit”) Part I.C.3.a. (modified version which became effective on December 9, 2021) sets a compliance schedule which sets the Total Ammonia Maximum Monthly Average for July through September as 8.0 mg/L until August 31, 2025. Therefore, the Division does not consider this incident as a violation in the NOV/CO and did not consider it when calculating the penalty for M22-02.
4. M22-02 Response indicates that SDSD intends to continue to follow the compliance schedule outlined in Permit Part I.C.3.a. to meet the final ammonia effluent limits by September 1, 2026. In accordance with this compliance schedule, SDSD submitted a capital facilities plan on October 24, 2022 (“2022 Facilities Plan”) and a modification to provide additional detail to the 2022 Facilities Plan on May 5, 2023 (“2023 Facilities Plan”). Both plans indicate SDSD’s intent to design and construct a moving bed biofilm reactor to treat wastewater for ammonia. As per the compliance schedule, SDSD has until August 1, 2026, to complete construction and begin utilizing the Facility upgrades, so that the September 1, 2026 final ammonia effluent limit can be met.
5. Since the issuance of the NOV/CO, SDSD has experienced additional exceedances at the North Treatment Plant. The Parties intend that this Stipulated Compliance Order will settle these additional violations in addition to the violations identified in the NOV/CO.

ORDER

Based upon the foregoing Facts and Findings, the Agreement of SDSD, and good cause appearing, the Director orders as follows:

1. Based on the application of the Division’s penalty policy, contained in Utah Admin. Code R317-1-8, to the violations specified in the NOV/CO, SDSD agrees to pay a civil penalty of \$80,000.00.
2. Payment associated with the NOV/CO, i.e. the penalty amounts described in paragraph 1, is to be made within thirty (30) calendar days of the Effective Date of this Agreement (defined below), using one of the following options:
 - a. CHECK – Payable to the Division of Water Quality. The payment shall be sent to:

Division of Water Quality
PO Box 144870
Salt Lake City, Utah 84114-4870
 - b. OTHER – For other available payment options, please contact the Division of Water Quality Finance staff at eqwqfinance@utah.gov.

3. While the Permit includes a compliance schedule, the Division anticipates that SDSL may exceed Permit limits prior to completion of the Facility upgrades. For the following Permit effluent limit exceedances that occur at the North Treatment Plant between December 1, 2023 and September 1, 2026, SDSL agrees to pay the following sums:
 - a. \$7,000.00 for each Total Ammonia Daily Maximum exceedance; and
 - b. \$3,500.00 for each Total Ammonia Maximum Monthly Average exceedance and Total Ammonia Maximum Monthly Load exceedance.
4. For each occurrence of all other Permit effluent limit exceedances that occur at the North Treatment Plant between October 13, 2023 and September 1, 2026, SDSL agrees to pay \$2,000.00.
5. Payment associated with all future effluent exceedance violations are to be made within thirty (30) calendar days of the Discharge Monitoring Report (“DMR”) certification date, using one of the following options:
 - a. CHECK – Payable to the Division of Water Quality. The payment shall be sent to:

Division of Water Quality
PO Box 144870
Salt Lake City, Utah 84114-4870
 - b. OTHER – For other available payment options, please contact the Division of Water Quality Finance staff at eqwqfinance@utah.gov.
6. SDSL elects to deposit the civil penalty and any required stipulated penalties into the Environmental Mitigation and Response Fund administered by the Executive Director of the Department of Environmental Quality as authorized by Utah Code § 19-1-603(3) (“Fund Deposit”). The Fund Deposit shall be fully used and is not returnable to SDSL. The Fund Deposit shall be used for environmental mitigation or environmental response actions related to the Great Salt Lake, per Utah Code § 19-1-603(4).

GENERAL PROVISIONS

1. The Parties recognize that this Agreement has been negotiated in good faith and nothing herein constitutes an admission of any liability. SDSL does not admit, and retains the right to controvert in any subsequent proceedings other than proceedings to implement or enforce this Order, the validity of the facts and violations alleged in the NOV/CO. SDSL further agrees it will not contest the basis or validity of this Order or its terms.
2. The violations described herein will constitute part of SDSL’s compliance history where such history is relevant, including any subsequent violations. SDSL understands and

agrees that this Agreement is not and cannot be raised as a defense to any other action to enforce any federal, state or local law.

3. SDSD agrees to the terms, conditions and requirements of this Order. By signing this Order, SDSD understands, acknowledges and agrees that it waives: (1) the opportunity for an administrative hearing pursuant to Utah Code § 19-1-301; (2) the right to contest the findings in the NOV/CO; and (3) the opportunity for judicial review.
4. This Agreement is subject to a thirty (30) day notice and comment period. The Parties each reserve the right to withdraw from this Agreement if comments received during the notice period result in a modification to the terms and conditions.
5. The “Effective Date” shall be the date this Order is executed by the Director. The Director will not sign the Order until after the Division has provided public notice of the proposed Order and has solicited and reviewed any public comments received.
6. This Order includes a civil penalty in excess of \$25,000 and therefore must be presented to, reviewed by, and approved or disapproved by the Board. *See* Utah Code § 19-5-104(3)(h). Final approval by the Director of this Order shall not occur until it is approved by the Board. The Order will be presented to the Board for final action after the Division has provided public notice of the proposed Order and has solicited and reviewed any public comments received. All public comments, and the Director’s responses, shall be provided to the Board in connection with the Director’s request for final action.
7. The dates set forth in the Order section of this Order may be extended in writing by the Director, in the Director’s sole discretion, based on the SDSD’s showing of good cause. Good cause for an extension generally means events outside of the reasonable control of the SDSD, such as force majeure, inclement weather, contractor or supplier delays, and similar circumstances. However, the Director expects the SDSD to employ reasonable means to limit foreseeable causes of delay. The timeliness of the SDSD’s request for an extension shall constitute an important factor in the Director’s evaluation.
8. Nothing in this Order shall preclude the Director from taking actions to include additional penalties against the SDSD for future violations of State or Federal law.
9. The Parties acknowledge that neither the Director nor the Board has jurisdiction regarding natural resource damage claims, causes of action, or demands. Therefore, such matters are outside the scope of this Order.
10. The person signing this Order on behalf of the SDSD represents to the Director that they have the full legal authorization to do so and agrees that the Director may rely on that representation.
11. This Agreement is binding upon each of the Parties and their respective heirs, successors, and assigns. Any change in ownership or corporate or legal status, including but not

limited to, any transfer of assets or real or personal property, shall in no way alter the status or responsibilities of the parties under this Agreement.

12. This Order may be amended, in writing, if signed by both Parties.

COMPLIANCE AND PENALTY NOTICE

As of the Effective Date, this Order shall constitute a final administrative order. Compliance with the provisions of this Order is mandatory. All violations of the Act, the Water Quality Rules, and this Order will be strictly enforced during the time that this Order remains in effect. The Act, Utah Code § 19-5-115, provides that any person who violates a rule or order made or issued pursuant to the Act may be subject, in a civil proceeding, to a state district judge imposing a civil penalty per day of violation.

[SIGNATURE PAGE FOLLOWS]


IT IS SO AGREED AND ORDERED:

FOR THE UTAH DIVISION OF WATER QUALITY

By: _____
John K. Mackey, P.E.
Director

Date: _____ (Effective Date)

FOR SOUTH DAVIS SEWER DISTRICT

By:  _____
Digitally signed by
Matthew Myers
Date: 2023.12.08 14:35:38
-07'00'

Title: General Manager

Date: December 8, 2023



State of Utah

SPENCER J. COX
Governor

DEIDRE HENDERSON
Lieutenant Governor

Department of
Environmental Quality

Kimberly D. Shelley
Executive Director

DIVISION OF WATER QUALITY
John K. Mackey, P.E.
Director

Water Quality Board
James Webb, Chair
Michelle Kaufusi, Vice Chair
Carly Castle
Michela Harris
Joseph Havasi
Trevor Heaton
Robert Fehr
Jill Jones
Kimberly D. Shelley
John K. Mackey
Executive Secretary

MEMORANDUM

TO: Utah Water Quality Board

THROUGH: John K. Mackey, Director

FROM: James Harris

DATE: January 24, 2024

SUBJECT: Request to initiate rulemaking: R317-16. Great Salt Lake Mineral Extraction Facility Operator Certification Approval

Background

During the 2023 Utah legislative session, the legislature passed HB 513 “Great Salt Lake Amendments”, which requires DEQ’s approval of operator certification that a proposed mineral extraction project will “not negatively impact the biota or chemistry of Great Salt Lake”. To establish the necessary procedures for certification, DWQ requested at the October 25th Water Quality Board meeting to initiate an informal rulemaking process and engage in stakeholder outreach. Please refer to that WQ Board memo for more background. Since that time, DWQ has drafted two versions of the draft rules and held two separate, informal public comment periods. In addition, DWQ has worked with a sub-committee of WQ board meetings and held several individual meetings with stakeholders to review comments and improve rule language. In the process, DWQ has also coordinated with the Division of Forestry, Fire, and State Lands to ensure compatibility with their associated HB513 draft rules.

At this time, staff is requesting approval from the Board to initiate the formal rulemaking process. Upon Board approval, staff will file the proposed rule with the Office of Administrative Rules (OAR) prior to their 02/01/2024 filing deadline for publication on 02/15/24. Once published by OAR, DWQ intends to notify the public and government officials and hold a 30-day public comment period which will end on 03/18/2024. Next, staff will incorporate comments from the public and other interested parties, prepare responses, and finally, return to the Board with recommendations for adoption.

Proposed Rulemaking Timeline

January 24, 2024:	Request WQB to initiate formal rulemaking:
February 15-March 18,2024	30-day public comment period
April 17, 2024:	Request WQB to formally adopt R317-16 into rule

Attachments:

R317-16. Great Salt Lake Mineral Extraction Facility Operator Certification Approval
Administrative Rules Analysis

State of Utah
Administrative Rule Analysis
 Revised May 2023

NOTICE OF PROPOSED RULE		
TYPE OF FILING: New		
Title No. - Rule No. - Section No.		
Rule or Section Number:	R317-16	Filing ID: Office Use Only

Agency Information

1. Department:	Environmental Quality	
Agency:	Water Quality	
Room number:		
Building:	Multi Agency State Office Building	
Street address:	195 N 1950 W, DEQ 3rd floor	
City, state and zip:	Salt Lake City, UT, 84116	
Mailing address:	PO Box 144870	
City, state and zip:	Salt Lake City, UT, 84114-4870	
Contact persons:		
Name:	Phone:	Email:
Jim Harris	801.541.3069	jamesharris@utah.gov
Please address questions regarding information on this notice to the persons listed above.		

General Information

2. Rule or section catchline:
R317-16. Great Salt Lake Mineral Extraction Facility Operator Certification Approval.
3. Purpose of the new rule or reason for the change:
Subsection 65A-6-4(6)(b) requires certain entities seeking a royalty agreement permitting the extraction of Great Salt Lake (GSL) elements or minerals to certify before operation begins that the operator is not negatively impacting the biota or chemistry of GSL, and obtain the approval of the Department of Environmental Quality that the certification supports the operator's finding. Existing state rules do not establish a process to meet this requirement; therefore, this new title is being established to address an application procedure for a distinctly new mineral extraction sector on GSL.
4. Summary of the new rule or change:
This new rule establishes the process of operator certification application and approval by the Utah Division of Water Quality as required by Subsection 65A-6-4(6)(b) for certain entities obtaining a royalty agreement permitting the extraction of Great Salt Lake elements or minerals.

Fiscal Information

5. Provide an estimate and written explanation of the aggregate anticipated cost or savings to:
A) State budget:
As R317-16 is a new rule and requires novel water quality certification review and approval, it is difficult to estimate the staff hours required to perform this work. However, based on similar water quality certifications from other programs and the expanded elements proposed for this certification review, it is expected that a certification review will require billable hours for multiple expert staff (scientists, biologist, geologist, program manager and director). Since this review may occur twice in one fiscal year (provisions require review during a "Feasibility Assessment" and "Operator Certification" phases separated by up to 9 months), DWQ estimates approximately 300 hours of staff time per fiscal year. This will be billed to the operator at a rate of \$125/hr, for an estimated total of \$37,500 per certification, and will not have a fiscal impact on DWQ's budget. While the number and timing of potential certifications is currently unknown, given this is a new sector of extraction mining, our involvement with existing facilities that are capable and interested in new operations, we estimate receiving approximately ~3 applications and have distributed those over the three years in the table below.
B) Local governments:
No local governments are constrained parties or will incur direct or indirect costs or benefits from this rule change.
C) Small businesses ("small business" means a business employing 1-49 persons):

Costs or savings for small business are inestimable because the number of small businesses that will apply for certification approval is unknown and we estimate that most operations will fall within the Non-small business category. In the event that a small business applies for a certification, estimates below will apply.

D) Non-small businesses ("non-small business" means a business employing 50 or more persons):

Based on experience within the sector of mineral extraction on GSL, nearly all of the potential operators who will be impacted by this new rule will fall under this category. As noted in the estimations provided under the State Budget section, the actual cost of staff review and approval of certifications will be billed directly to the operator for reimbursement and are reflected in the table below. There is likely a significant cost to businesses in developing the supporting information, monitoring, and research and development of technologies to ensure compliance which is inestimable and not included in this analysis.

E) Persons other than small businesses, non-small businesses, state, or local government entities ("person" means any individual, partnership, corporation, association, governmental entity, or public or private organization of any character other than an *agency*):

Costs or savings for other persons are inestimable because the number of other persons that will apply for certification approval is unknown (see above for cost estimates). However, persons other than small businesses, non-small businesses, state, or local government entities are unlikely to be constrained parties under this rule.

F) Compliance costs for affected persons (How much will it cost an impacted entity to adhere to this rule or its changes?):

Compliance costs for affected persons are inestimable because approaches to meeting the rule will be applicant specific and determined by the applicant.

G) Regulatory Impact Summary Table (This table only includes fiscal impacts that could be measured. If there are inestimable fiscal impacts, they will not be included in this table. Inestimable impacts will be included in narratives above.)

Regulatory Impact Table

Fiscal Cost	FY2024	FY2025	FY2026
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$37,500	\$37,500	\$37,500
Other Persons	\$0	\$0	\$0
Total Fiscal Cost	\$37,500	\$37,500	\$37,500
Fiscal Benefits	FY2024	FY2025	FY2026
State Government	\$37,500	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
Total Fiscal Benefits	\$37,500	\$37,500	\$37,500
Net Fiscal Benefits	\$0	\$0	\$0

H) Department head comments on fiscal impact and approval of regulatory impact analysis:

The Executive Director of Department of Environmental Quality, Kim Shelly, has reviewed and approved this regulatory impact analysis.

Citation Information

6. Provide citations to the statutory authority for the rule. If there is also a federal requirement for the rule, provide a citation to that requirement:

Subsection 65A-6-4(6)(b)		

Incorporations by Reference Information

7. Incorporations by Reference (if this rule incorporates more than two items by reference, please include additional tables):

A) This rule adds, updates, or removes the following title of materials incorporated by references (a copy of materials incorporated by reference must be submitted to the Office of Administrative Rules; *if none, leave blank*):

Official Title of Materials Incorporated (from title page)	
Publisher	

Issue Date	
Issue or Version	

B) This rule adds, updates, or removes the following title of materials incorporated by references (a copy of materials incorporated by reference must be submitted to the Office of Administrative Rules; <i>if none, leave blank</i>):	
Official Title of Materials Incorporated (from title page)	
Publisher	
Issue Date	
Issue or Version	

Public Notice Information

8. The public may submit written or oral comments to the agency identified in box 1. (The public may also request a hearing by submitting a written request to the agency. See Section 63G-3-302 and Rule R15-1 for more information.)		
A) Comments will be accepted until:	03/18/2024, end of business day	
B) A public hearing (optional) will be held:		
Date (mm/dd/yyyy):	Time (hh:mm AM/PM):	Place (physical address or URL):
To the agency: If more space is needed for a physical address or URL, refer readers to Box 4 in General Information. If more than two hearings will take place, continue to add rows.		

9. This rule change MAY become effective on:	03/25/2024
NOTE: The date above is the date the agency anticipates making the rule or its changes effective. It is NOT the effective date.	

Agency Authorization Information

To the agency: Information requested on this form is required by Sections 63G-3-301, 63G-3-302, 63G-3-303, and 63G-3-402. Incomplete forms will be returned to the agency for completion, possibly delaying publication in the <i>Utah State Bulletin</i> and delaying the first possible effective date.		
Agency head or designee and title:	Date:	Click or tap to enter a date.

R317. Environmental Quality, Water Quality.

R317-16. Great Salt Lake Mineral Extraction Facility Operator Certification Approval.

R317-16-1. Purpose and Authority.

- (1) Authority. This rule is promulgated pursuant to Utah Code Section 65A-6-4.
- (2) Purpose. The purpose of this rule is to implement regulations consistent with the purpose and intent of the legislature's amendments to Utah Code Section 65A-6-4 regarding the impact to biota or chemistry from mining of Great Salt Lake elements and minerals.

R317-16-2. Definitions.

In addition to the general definitions in Section R317-1-1, the following definitions apply for purposes of this section only:

- (1) "Application for Operator Certification Approval" or "Application" means a request for concurrence, together with the required information detailed in Section R317-16-3, with an operator's certification that its operations will not negatively impact biota or chemistry of the Great Salt Lake.
- (2) "Biota" means all plants, fungi, animals, and other bacteria and archaea in the Great Salt Lake ecosystem.
- (3) "Certification Decision" includes the following:
 - (a) "Operator Certification Approval" means a document prepared pursuant to this Section indicating the director's approval of an operator's certification. An operator certification approval is a permit order as defined in Subsection 19-1-301.5(1)(f)(i).
 - (b) "Operator Certification Denial" means a document prepared pursuant to this section indicating the director's denial of an operator's certification. An operator certification denial is a permit order as defined in Subsection 19-1-301.5(1)(f)(i).
- (4) "Chemistry" means the properties, composition, and structure of the elements and compounds, and interactions thereof, making up the waters, brines, and substrate of the Great Salt Lake.
- (5) "Director" means the director of the Utah Division of Water Quality.
- (6) "Discharge" means any water or substance placed into a receiving water which includes any combination of treated, processed, replacement, or return flows.
- (7) "Division" means the Utah Division of Water Quality.
- (8) "Draft Certification Decision" means a document prepared pursuant to this rule indicating the director's preliminary decision to approve or deny an operator certification.
- (9) "Forestry, Fire, and State Lands"(FFSL) means the Utah Department of Natural Resources, Division of Forestry, Fire, and State Lands.
- (10) "GSL" means Great Salt Lake.
- (11) "Negative Impact" includes any activity or action that:
 - (a) negatively alters the salinity, concentrations of pollutants, or other aspects of water chemistry in GSL;
 - (b) negatively alters the volume or timing of water flows to GSL or water levels in GSL or GSL wetlands;
 - (c) reduces, degrades, or otherwise negatively alters habitat in and around the Great Salt Lake; or
 - (d) results in harmful health impacts to GSL biota, including disruptions to survival, reproduction, or growth.

(12) “Operator” means a person submitting an application for operator certification approval to pursue extraction of GSL elements or minerals to the Division of Water Quality.

(13) “Operator Certification” means a statement by an operator that its operation will not negatively impact the biota or chemistry of the Great Salt Lake.

R317-16-3. Application Procedures.

(1) The operator shall request a pre-filing meeting with the division and with FFSL at least 30 days prior to application for operator certification approval. The division and FFSL may jointly waive or shorten the requirement for a pre-filing meeting request.

(2) An application for operator certification approval shall be made simultaneously with the application to FFSL pursuant to Subsection 65A-6-4(6)(b)(iii). If the application is not made in accordance with this requirement, there may be delays and additional fees to allow the collection and consideration of all pertinent information.

(3) Within thirty days of receiving the application for operator certification approval, the division will notify the operator whether the application is complete. If an application is incomplete or is otherwise deficient, the division shall notify the operator and provide a list of missing information to supply.

(a) To remedy an incomplete or deficient application, an operator may submit the additional missing information requested by the division within thirty days after the division’s notice of incompleteness or deficiency. An application which is deemed incomplete or deficient and is not remedied within thirty days is administratively denied, and the operator must resubmit an application for operator certification approval.

(4) Applications for operator certification approval shall be submitted on the form provided by the division. All information submitted in support shall have been obtained within one year of filing the application, unless otherwise extended in writing by the division.

(5) The operator shall include a statement that the proposed project will not negatively impact the biota or chemistry of GSL and shall provide scientific evidence supporting the certification.

(6) The operator shall notify the director in writing of changes which may affect the application for operator certification and certification approval process.

(7) If an operator who is required to obtain an operator certification approval fails to do so, the director may process an application for operator certification approval after-the-fact. An application after-the-fact shall be reviewed under the same standards as a timely application for operator certification approval. The director may require restoration or other actions as a pre-condition of processing the application. An operator submitting an after-the-fact application shall have the burden of proving what the original baseline conditions were, and an application may be denied in the absence of such proof. After-the-fact operator certification approvals may not be retroactively effective.

(8) Once a fee is established pursuant to Subsection 19-1-201(6)(i), the operator shall include the fee with the application. The division will not commence review of the application until it has received the applicable fee. The fee is not refundable or transferable to a separate application.

R317-6-4. Application Contents.

Unless otherwise determined by the director, the application for operator certification approval shall include the following complete information and documentation:

- (1) application date;
- (2) contact information consisting of:
 - (a) legal name, permanent address, telephone number and email address of the operator;
 - (b) name and permanent address of the operator's registered agent in Utah;
 - (c) name, address, email address and telephone number of the primary contact for the application, including the person to whom requests for additional information should be addressed; and
 - (d) signature of the operator; a corporate application must be signed by an officer of the corporation;
- (3) project information:
 - (a) facility and process information:
 - (i) a description of the overall project including the construction and operation of the facilities which may result in discharge;
 - (ii) plan or drawings that include a plan view, cross section view, and elevation view;
 - (iii) detailed information pertaining to chemicals used during the process, including a mass balance of constituents removed or added to GSL;
 - (iv) documentation of appropriate containment and disposal infrastructure for waste generated by the project;
 - (v) location and acreage of lakebed used;
 - (vi) estimated dates when the activity may begin and end, and the date or dates when the withdrawals or discharges may take place;
 - (vii) supporting documentation submitted to federal agencies, including maps, plans, specifications, project dimensions, copies of associated federal applications, biological and engineering studies, environmental assessment or environmental impact statements, or alternative analyses, as applicable;
 - (viii) the volume of water depleted through the process;
 - (ix) rate of extraction for the targeted and non-targeted minerals or elements and estimated rate of depletion of the targeted and non-targeted mineral or element in GSL;
 - (b) withdrawal information:
 - (i) names of the waters where any withdrawals will occur, including the precise latitude and longitude to the fifth decimal place in decimal degrees and to the tenth of a degree in degrees-minutes-seconds notation;
 - (ii) detailed information on the quantity of water withdrawn and depleted;
 - (iii) detailed information on the timing of the withdrawal;
 - (c) discharge information:
 - (i) names of the waters where the discharges may occur, including the precise latitude and longitude to the fifth decimal place in decimal degrees and to the tenth of a degree in degrees-minutes-seconds notation;
 - (ii) sources, volume, and timing of the discharge
 - (iii) characterization of the physical, chemical, biological, thermal, and other pertinent properties of the discharge; at a minimum: pH, total alkalinity, total dissolved solids, total suspended solids, sulfate, nitrate, nitrite, carbonate, bicarbonate, chloride, hydroxide, chemical oxygen demand, biological oxygen demand, silica, zinc, magnesium, sodium, calcium, potassium, boron, bromine, aluminum, iron, and silicon; range of temperatures expected in effluent; density range of effluent to be discharged; and quantity of foreign materials that would be discharged to the GSL on an annual basis.

Additional information regarding any unique features of the

- (d) additional information regarding any unique features of the project;
- (4) impacted habitat:
 - (a) description of existing habitat and biota potentially in and around the area of operation;
 - (b) description of the potential physical impact to habitat and biota in and around the discharge location;
 - (c) the operator shall evaluate and provide a response to the following:
 - (i) Are there any less-degrading alternatives?
 - (ii) Are any plans in place to mitigate any adverse environmental effects of the proposed operation?
 - (iii) Will existing beneficial uses be maintained and protected?
 - (5) monitoring & inspection plan:
 - (a) monitoring plan to address long term cumulative effects of withdrawals and discharges on the biota and chemistry of the GSL including available baseline data;
 - (b) a description of the methods and means being used or proposed to monitor the quality and characteristics of the discharge and the operation of the equipment or facilities employed in control of any proposed discharge;
 - (c) provide a map showing the locations of any monitoring points;
 - (6) evidence supporting the operator certification:
 - (a) an operator certification should consider both short term, localized effects and long term, ecosystem impacts of the project;
 - (b) examples of evidence supporting a certification may include:
 - (i) a quantitative comparison of influent and effluent volume and chemical composition;
 - (ii) modeled annual impacts to salinity or concentrations of other important chemical parameters in GSL;
 - (iii) evaluation of impacts to GSL biota including:
 - (A) a quantitative comparison of effluent chemical concentrations to applicable water quality standards; or
 - (B) other scientifically defensible biological response thresholds;
 - (iv) other scientifically defensible means for evaluating project impacts on GSL chemistry and biota; and
 - (7) any other information as requested by the director.

R317-16-5. Draft Certification Decision.

- (1) Within sixty days after receiving a complete and accepted application for operator certification approval, the director shall issue a draft certification decision identifying whether the director intends to issue an operator certification approval or an operator certification denial.
- (2) The draft certification decision shall be subject to a public notice and comment period of 30 days.
- (3) The division may publish the public notice using the following methods:
 - (a) Utah Department of Environmental Quality website; and
 - (b) the Utah Public Notices website.
- (4) The director may, at the director's discretion, hold a public hearing to take oral comments if:

- (a) the division receives a request in writing not more than 15 days after the publication date of the draft certification decision; and
- (b) the request is from:
 - (i) another state agency,
 - (ii) ten interested persons, or
 - (iii) an interested association having not fewer than ten members.
- (5) The director shall consider the comments received during the public notice and comment period in finalizing the certification decision.

R317-16-6. Certification Decision.

- (1) After review of the application for operator certification approval and after review and consideration of all comments received during the public notice and comment period, the director shall issue one of the following certification decisions:
 - (a) operator certification approval; or
 - (b) operator certification denial.
 - (i) If the director issues an operator certification denial, the denial shall include reasons for denial.
 - (ii) If the director issues an operator certification denial, the director will notify FFSL of the denial.
- (2) The certification decision shall include a summary of the comments received during the public notice and comment period and state whether any changes were made to the certification decision as a result of the comments.
- (3) Nothing in the director's operator certification approval authorizes the operator to not follow all other required applicable federal, state, and local laws.

R317-16-7. Term of Operator Certification Approval.

- (1) An operator certification approval shall be effective for a term not to exceed five (5) years.
- (2) An operator shall submit an application for operator certification approval to renew its operator certification approval no later than 180 days prior to the expiration of the certification approval.
 - (a) Failure to submit an application for operator certification approval to renew shall result in a lapse of the operator certification approval.
 - (b) The director will notify the operator and FFSL of the lapse. The director's notification is not a permit order.

R317-16-8. Reevaluation of Operator Certification Approval.

- (1) If any of the following occur, the director shall notify the operator that it must resubmit, within 60 days, an application for operator certification approval for reevaluation:
 - (a) the operator's failure to disclose fully in the application all relevant facts;
 - (b) the operator's misrepresentation of any relevant fact at any time;
 - (c) existence of evidence that the operation no longer meets the requirement that it not negatively impact the biota or chemistry of GSL;
 - (d) request for a major modification in the operator's Utah Pollutant Discharge Elimination System (UPDES) permit as defined by Subsection R317-8-5.6; or
 - (e) the emergency trigger as defined in Section R652-21-1103.

(2) The reevaluation will follow all procedures specified in this rule.

R317-16-9. Transfer of Operator Certification Approval.

(1) The operator shall give written notice to the director of any transfer of the operator certification approval at least 30 days in advance of the effective date of the transfer.

(2) The notice shall include a written agreement between the existing and new operators establishing a specific date for transfer of certification responsibility.

(3) The notice shall contain all information required under contact information in Subsection R317-16-4(2) for the new operator.

R317-16-10. Effect of Operator Certification Approval on Other Required Permits.

(1) Operator certification approval does not exempt the operator from obtaining any other required permits.

(2) An operator certification approval is required in addition to a Utah Pollutant Discharge Elimination System (UPDES) permit for facilities subject to this rule; however, reporting required by the operator certification approval may also be required through the UPDES permit, at the director's discretion.

KEY: **Water Quality,** _____

Date of Last Change: 2024

Authorizing, and Implemented or Interpreted Law: 65A-6-4



State of Utah

SPENCER J. COX
Governor

DEIDRE HENDERSON
Lieutenant Governor

Department of
Environmental Quality

Kimberly D. Shelley
Executive Director

DIVISION OF WATER QUALITY
John K. Mackey, P.E.
Director

MEMORANDUM

TO: Utah Water Quality Board

FROM: Judy Etherington, Wastewater Certification Program Coordinator
Tessa Scheuer, Wastewater Certification Program Coordinator

THROUGH: John K. Mackey, P.E., Director;
Emily Cantón, Assistant Director; and
Alexander Heppner, Data and Information Services Section Manager

DATE: January 24, 2024

SUBJECT: Recommendations for Appointment to the Utah Wastewater Operator Certification Council for February 1, 2024 through January 31, 2027

As of January 31, 2024, the terms of two members of the Utah Wastewater Operator Certification Council expire. The members with expiring terms are Chad Burrell, representing certified wastewater treatment operators; and Rob Jaterka, representing certified wastewater collection operators. Other current members of the Council include Giles Demke, Phil Harold, Brian Lamar, Blaine Shipley, and Dr. Ben Willardson.

Recommendations for appointment to these positions were solicited from individuals and organizations in the wastewater sector and educational institutions. Individuals are appointed for a three-year term. Council members may be reappointed, but they do not automatically succeed themselves. The names recommended to the Board at this time are selected from written recommendations received by the Division of Water Quality prior to January 5, 2024.

At this time, it is recommended that *Chad Burrell*, the Operations and Safety Manager for Snyderville Basin Water Reclamation District, and *Rob Jaterka*, the District Inspector for Magna Water District, be re-appointed to serve a second term representing certified wastewater treatment and collection operators, respectively.

This is a request for Board approval of these two individuals for the term February 1, 2024 through January 31, 2027.

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File: WWOCC/Appointments/2024