



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

Utah Water Quality Board Meeting MASOB & Via [Zoom](#) 195 North 1950 West Salt Lake City, Ut 84116

June 26, 2024
Board Meeting Begins at 9:30 AM

AGENDA

Water Quality Board Meeting – Call to Order & Roll Call

John K. Mackey

Election of Chair Pro-Tempore

Water Quality Board

Minutes:

Approval of Minutes for April 23, 2024 Water Quality Board Meeting

Chair Pro-Tempore

Executive Secretary Report

John K. Mackey

Watershed Protection:

1. 2024 Integrated Report
2. Nonpoint Source Program Annual Report

Alan Ochoa
Paul Burnett

Rule Making:

1. Rulemaking Actions: R317-16 GSL Mineral Extraction Facility Operator Certification Approval/Summary of Public Comments & Responses
2. Request to Initiate Informal Rulemaking Necessary to Address HB453

Ben Holcomb
Ben Holcomb

Compliance & Enforcement:

1. Request Approval of Administrative Settlement Agreement-Spanish Fork Corporation

Justine Marshall

Funding:

1. Sherwood Shores Deauthorization
2. Re-Authorization of Available Southern Reuse ARPA Grant Balance

George Meados
Andrew Pompeo

Other:

1. Results From the 2023 Triennial Review of Utah's Water Quality Standards

Jake Vander Lann

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.

195 North 1950 West • Salt Lake City, UT
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

Chair Pro-Tempore

Next Meeting
August 28, 2024 at 8:30 am
MASOB & Via [Zoom](#)
195 North 1950 West
Salt Lake City, Ut 84116

DWQ-2024-004701



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**Utah Water Quality Board Meeting
Dixie Convention Center & Via Zoom
1835 S. Convention Center Dr.
St. George, Utah 84790
and
Via Zoom**

April 23, 2024

Board Meeting Begins at 2:00 PM

UTAH WATER QUALITY BOARD MEMBERS PRESENT

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

DIVISION OF WATER QUALITY STAFF MEMBERS PRESENT & ONLINE

Brendon Quirk
Clanci Hawks
Ken Hoffman
Beth Wondimu
Linsey Shafer
Robert Beers
Allie Rockhill
Glen Lischeske
Jeff Komell
Emily Canton
Tessa Scheuer
Sammy Heusser
Andrew Pompeo
Jeff Studenka
Judy Etherington
Dave Pierson
Harry Campbell
Porter Henze
Sam Taylor

OTHERS PRESENT & ONLINE

Matt Goodrich	Paul Bittman
Chad Burrell	Michael Chandler
Gary Vance	Steve Jackson
Curtis Page	Kendra Norman
M. Simmons	Haley Sousa
Jill Burton	Chad Burrell
Russel Seeley	
Mayor Shane Baton	

Mr. Webb, Chair, called the Meeting to order at 2:00 PM.

ROLL CALL

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

APPROVAL OF MINUTES OF March 27, 2024 BOARD MEETING

Mr. Webb moved to approve the minutes of the March 27, 2024 Board meeting.

Motion: Ms. Jones motioned to accept the minutes.
Ms. Harris seconded the motion.
The motion passed unanimously to approve the March 27, 2024 meeting minutes.

EXECUTIVE SECRETARY REPORT

Mr. Mackey addressed the Board regarding the following:

- State/Division News:
 - Mr. Mackey expressed his appreciation to WEAU for hosting the WQ Board Meeting.
 - Mr. Mackey mentioned KC Becker with the EPA recently visited Utah. She met with Division of Water Quality and Provo City personnel at the City's new state-of-the-art wastewater treatment plant site. The new facility will benefit the City and Utah Lake as critical infrastructure that protects both growth and water quality.
 - Mr. Mackey reviewed two PFAS rulemaking topics:
 - EPA finalized a critical rule to designate two widely used PFAS—PFOA and PFOS—as hazardous substances under the Comprehensive Environmental Response Compensation & Liability Act. This step improves transparency and accountability to clean up PFAS contamination in communities. In addition to the final rule, EPA issued a separate CERCLA enforcement discretion policy to clarify that EPA will focus its enforcement on parties who significantly contribute to the release of PFAS chemicals into the environment.
 - EPA issued the first-ever national, legally enforceable drinking water standard to protect communities from exposure to harmful PFAS. The final rule will reduce PFAS exposure for approximately 100 million people, prevent deaths and reduce serious illnesses. While the standard is for the drinking water side, water quality is

affected because what goes in the water must come out.

- Mr. Mackey mentioned the EPA Region 8 Water & Wastewater Security Summit that was held in Salt Lake City on April 18-19, 2024. The focus was on protecting water systems from a variety of threats & hazards, including physical attacks, cyberattacks, aging infrastructure and natural disasters. Additional information can be located on the America's Cyber Defense Agency's webpage, <https://www.cisa.gov/water>.

FUNDING

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

Cedar City ARPA Reauthorization: Mr. Campbell presented on behalf of Cedar City for reauthorization. Cedar City is requesting a scope of work amendment to the December 14, 2022 authorization for the inclusion of construction of filtration and UV disinfection at their wastewater treatment plant.

Motion: Ms. Jones motioned to amend the December 14, 2022 authorization to allow Cedar City to request reimbursement for the construction of a project including both filtration & disinfection of the production of treated effluent meeting Type I standards.

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

Ash Creek SSD (ACSSD) Authorization: Mr. Lischeske presented on behalf of ACSSD to request funding from the WQ Board in the amount of \$6,876,00 for the construction of a regional sewer lift station and pressure sewer force main to connect the Town of Virgin to the ACSSD collection system in La Verkin, UT.

Motion: Ms. Jones motioned to authorize funding to ACSSD in the amount of \$6,876,000 as a loan at an interest rate of 0% repayable over 30 years with the special conditions recommended by staff as indicated in the packet.

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

Corrine City Planning Advance: Mr. Hoffman presented on behalf of Corinne City to request a Hardship Planning Advance in the amount of \$102,900 for preparation of a Preliminary Engineer Report related to the improvements of its sanitary sewer collection system and wastewater lagoon treatment system.

Motion: Ms. Harris motioned to authorize funding to Corrine City in the amount of \$102,900 as a Planning Advance with the special conditions recommended by staff as indicated in the packet.

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

Lewiston City Reauthorization: Mr. Hoffman presented on behalf of Lewiston City to request reauthorization. Lewiston returned to the Board as required under a special condition of the October 25, 2023 authorization. Staff recommended the Board amend the October 25, 2023 authorization with revised special conditions as presented in the packet.

Motion: Mr. Heaton motioned to reauthorize the funding package following the staff recommendations and special conditions as presented in the packet.

Mayor Kaufusi seconded the motion.
The motion passed unanimously.

RULE MAKING:

Rulemaking Actions R317-16 GSL Mineral Extraction Facility Operator Certification Approval/Summary of Public Comments & Responses: Mr. Harris & Mr. Holcomb requested approval of the proposed amendments and response to comments; and staff approval to submit the revised R317-16 to the Office of Administrative Rules before May 1, 2024 in order to publish another public comment period beginning May 15, 2024.

Motion: Mr. Havasi motioned to approve the request to release the proposed amendments of the draft rule for public review.

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

COMPLIANCE & ENFORCEMENT:

Presentation of the Division of Water Quality's Penalty Policy: Ms. Sousa & Ms. Heusser provided the Board with a slide show presentation of DWQ's Penalty Policy.

OTHER:

Water Operator Certification Program 2023 Annual Report: Mr. Burrell, Chair of the Wastewater Operator Certification Council, provided the Board with the 2023 Utah Wastewater Operator Certification Council Annual Report.

PUBLIC COMMENTS

No comments were presented.

MEETING ADJOURNMENT

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

**Next Meeting –
May 22, 2024 at 8:30 am
MASOB & Via Zoom
195 North 1950 West
Salt Lake City, Utah 84116**

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

James Webb, Chair
Utah Water Quality Board



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MEMORANDUM

TO: Water Quality Board

THROUGH: John Mackey, Director

FROM: Jodi Gardberg, Watershed Protection Section Manager

DATE: June 26, 2024

SUBJECT: 2024 Integrated Report

The Utah Division of Water Quality (DWQ) assesses the surface waters of the State (e.g., rivers/streams, lakes/reservoirs) and reports on their condition in the Integrated Report. To accomplish this, DWQ assembles and evaluates all existing and readily available water quality data over a six year period to determine if assessed waterbodies support their designated beneficial uses according to Utah's water quality standards (Utah Administrative Code R317-2). Beneficial uses assessed include drinking water, recreation, aquatic life, agriculture, and the Great Salt Lake. The Integrated Report is submitted every two years for Environmental Protection Agency (EPA) approval and includes the 305(b)-assessment report and the 303(d) list of impaired waters. The Assessment Methodology guides how DWQ performs water quality assessments. The 2024 Integrated Report was submitted to EPA on April 1, 2024 and approved by EPA on April 30, 2024. Alan Ochoa will present a summary of the 2024 Integrated Report. For more information, please visit the 2024 Integrated Report website at <https://deq.utah.gov/water-quality/2024-integrated-report> that includes an interactive map of the results.

DWQ-2024-004530



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MEMORANDUM

TO: Water Quality Board

THROUGH: John Mackey, Director

FROM: Jodi Gardberg, Watershed Protection Section Manager

DATE: June 26, 2024

SUBJECT: State Nonpoint Source Program Annual Report
Fiscal Year (FY) 2023 and FY 24 Projects Overview

The Utah Division of Water Quality receives grant funds to implement nonpoint source pollution control projects throughout the state. These grants include Section 319(h) funds from the Environmental Protection Agency (EPA) and State Nonpoint Source funds authorized by the Water Quality Board. Every year an annual report is submitted to EPA on the accomplishments of the State's Nonpoint Source Program. Paul Burnett will present a summary of the FY23 annual report including an overview of the projects selected for FY24.

DWQ-2023-004531



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MEMORANDUM

TO: Utah Water Quality Board

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

FROM: Ben Holcomb, Standards & Tech Services Section Manager

DATE: June 26, 2024

SUBJECT: **Rulemaking Actions: Request to Adopt: R317-16 GSL Mineral Extraction Facility Operator Certification Approval**

Board Action: Staff recommends that the Water Quality Board adopt R317-16 as proposed in the May 15, 2024 Bulletin as a Board Order effective immediately.

Background

During the 2023 Utah legislative session, the legislature passed HB 513 “Great Salt Lake Amendments”, which requires the Department of Environmental Quality’s (DEQ) approval of operator certification that a proposed mineral extraction project will “not negatively impact the biota or chemistry of Great Salt Lake”. The Water Quality Board (Board) approved the initiation of formal rulemaking at the January 24, 2024 Board meeting. This was followed by the publication of the draft rules by the Office of Administrative Rules (OAR) on February 15, 2024 for a 30-day comment period ending on March 15, 2024.

At the April 23, 2024 Board meeting, staff provided a summary of the public comments received on the draft rule and the Division of Water Quality’s responses. Resulting changes to R317-16 were determined substantive and required an additional 30-day public comment period from May 15, 2024 to June 15, 2024. Only nonsubstantive questions from the public were received during this period (see attachment). Staff recommends that the Water Quality Board adopt R317-16 as proposed in the May 15, 2024 Bulletin as a Board Order effective immediately.

State of Utah
Administrative Rule Analysis
Revised May 2023

NOTICE OF CHANGE IN PROPOSED RULE

Title No. - Rule No. - Section No.

Rule or Section Number:	R317-16	Filing ID: Office Use Only
Date of Previous Publication:	02/15/2024	

Agency Information

1. Department:	Environmental Quality	
Agency:	Division of Water Quality	
Room number:	DEQ 3rd floor	
Building:	Multi Agency State Office Building	
Street address:	195 N 1950 W	
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:
James 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. Reason for this change:
Changes are proposed in response to comments received during public comment period.
4. Summary of this change:
Changes in proposed rule include refinements to definitions, minor additions to the feasibility assessment requirements, changes to citations to ensure compatibility with related rules and general edits for clarity.

Fiscal Information

5. Provide an estimate and written explanation of the aggregate anticipated cost or savings to:
A) State budget:
There is no anticipated cost or savings impact to the state budget since the proposed changes are primarily for the purposes of clarification and consistency in response to comments received during the initial comment period.
B) Local government:
There is no anticipated cost or savings impact to local government since proposed changes are primarily for the purposes of clarification and consistency in response to comments received during the initial comment period.
C) Small businesses ("small business" means a business employing 1-49 persons):
This rule modification is not anticipated to impact small business cost or savings, since the proposed changes are primarily for the purposes of clarification and consistency in response to comments received during the initial comment period.
D) Non-small businesses ("non-small business" means a business employing 50 or more persons):
This rule modification is not anticipated to impact non-small business cost or savings, since the proposed changes are primarily for the purposes of clarification and consistency in response to comments received during the initial comment period.

E) Persons other than small businesses, non-small businesses, or 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**):

Persons other than small businesses, non-small businesses, or state or local government entities will not be financially affected, since the proposed changes are primarily for the purposes of clarification and consistency in response to comments received during the initial comment period.

F) Compliance costs for affected persons:

These changes are in response to comments received during the initial comment period and intended to provide clarification and consistency with related rules. There are no additional anticipated compliance costs for affected persons due to the proposed changes.

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	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
Total Fiscal Cost	\$0	\$0	\$0
Fiscal Benefits	FY2024	FY2025	FY2026
State Government	\$0	\$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	\$0	\$0	\$0
Net Fiscal Benefits	\$0	\$0	\$0

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

The Executive Director of the Department of Environmental Quality, Kimberly Shelley, 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; *if none, leave blank*):

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:		06/17/2024
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:	06/26/2024
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 Section 63G-3-303. 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:	John K. Mackey, Director, Division of Water Quality	Date:	04/30/2024

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 Section 65A-6-4.
- (2) Purpose. To implement administrative rules for approval of operator certification according to Section 65A-6-4 and to protect the biota and chemistry of Great Salt Lake from possible negative impacts in connection with brine processing and mineral extraction activities.

R317-16-2. Definitions.

The following definitions apply for purposes of this rule only:

- (1) "Application for Operator Certification Approval" or "Application" means a request for approval of an operator's certification that its operations will not negatively impact biota or chemistry of Great Salt Lake, and includes the specific information detailed in Sections R317-16-3 and R317-16-5.
- (2) "Biota" means all plants, fungi, animals, protists, bacteria, and archaea in Great Salt Lake.
- (3) "Brine Depletion" means the volume of brine water consumed through processing and operations, calculated by subtracting the volume of returned water from the volume of brine water.
- (4) "Brine Water" means water diverted from Great Salt Lake.
- (5) "Certification Decision" includes the following:
 - (a) "Operator Certification Approval" means a permit order, as defined in Subsection 19-1-301.5(1)(f)(i), indicating the director's approval of an operator's certification.
 - (b) "Operator Certification Denial" means a permit order, as defined in Subsection 19-1-301.5(1)(f)(i), indicating the director's denial of an operator's certification.
- (6) "Chemistry" means the properties, composition, and structure of the elements and compounds, and interactions thereof, making up the waters, brines, and substrate of Great Salt Lake.
- (7) "Director" means the director of the Utah Division of Water Quality.
- (8) "Discharge" means any water, substance, or pollution placed into a receiving water; which may include any combination of treated, processed, ~~mitigation,~~ or returned waters.
- (9) "Division" means the Utah Division of Water Quality.
- (10) "Draft Certification Decision" means a document indicating the director's preliminary decision to approve or deny an operator's certification. A draft certification decision is not a permit order.
- (11) "Externally Sourced Water" means water diverted from sources other than Great Salt Lake and used for processing and operations.

- (12) "Feasibility Assessment" means the same as that term defined in ~~[Section]~~Title R652~~[-21-200]~~.
- (13) "FFSL" means the Utah Department of Natural Resources, Division of Forestry, Fire, and State Lands.
- (14) "Foreign materials" means materials added to a discharge or a commercial process.
- (15) "GSL" means Great Salt Lake.
- (16) ~~["Mitigation Water" means the water diverted from sources other than Great Salt Lake and delivered to Great Salt Lake to compensate for brine depletion, pursuant to Section 65A-6-4. Mitigation water may not include wastewater reuse.~~
- ~~_____~~ (17) ~~["Negative Impact" includes any activity or action that:~~
- (a) causes pollution, or negatively alters the salinity or other aspects of water chemistry in Great Salt Lake;
 - (b) negatively alters the volume or timing of water flows to Great Salt Lake, or water levels in Great Salt Lake or Great Salt Lake wetlands;
 - (c) reduces, degrades, or otherwise negatively alters habitat in and around Great Salt Lake; or
 - (d) results in harmful physiological impacts to Great Salt Lake biota, including disruptions to survival, reproduction, or growth.
- (17~~[8]~~) "Operator" means a person submitting an application for operator certification approval to pursue extraction of Great Salt Lake elements or minerals to the Division of Water Quality.
- (18~~[9]~~) "Operator Certification" means a statement by an operator that its operation will not negatively impact the biota or chemistry of Great Salt Lake.
- (19~~[20]~~) "Pollution" means the same as that term is used in Section 19-5-102.
- (20~~[+]~~) "Returned Water" means any water discharged into Great Salt Lake from commercial operations.
- (21~~[2]~~) "Total Water" means the sum of externally sourced water and brine water.
- (22~~[3]~~) "UPDES" means Utah Pollutant Discharge Elimination System.
- (23~~[4]~~) "Water Depletion" means the volume of total water consumed through processing and operations, calculated by subtracting the volume of returned water from the volume of ~~[brine]~~total water.

R317-16-3. Feasibility Assessment -- Certification Approval by Rule.

- (1) The operator shall request a pre-filing meeting with the division and with FFSL at least 30 days before submitting a feasibility application with FFSL. The division and FFSL may jointly waive or shorten the requirement for a pre-filing meeting request.
- (2) For the feasibility assessment only, a UPDES permit is considered a feasibility assessment certification approval by rule.
- (a) The term of a UPDES permit issued for the feasibility assessment shall be the duration of the feasibility assessment.
 - (b) If the operation is non-discharging during the feasibility assessment and does not require a UPDES permit, the operator shall nonetheless comply with Subsection R317-16-3(3).
- (i) The director will issue a certification decision using the procedures listed in Sections R317-16-6 and R317-16-7.
 - (ii) The term of a feasibility assessment certification approval shall be the duration of the feasibility assessment.
- (3) To obtain feasibility assessment certification approval by rule, the operator shall submit, on a form provided by the division:
- (a) information listed in this section pertaining to the feasibility assessment; and
 - (b) an application for a UPDES permit.
- (4) Feasibility assessment information required:
- (a) project information:
 - (i) mass balance of principal GSL salinity constituents, including all target and non-target minerals across the principal mineral processing steps;
 - (ii) a water balance at design flow, low flow conditions, and across a range of lake levels;
 - (iii) generated waste containment and disposal infrastructure descriptions, including residuals and disposal methods;
 - (iv) location and acreage of lakebed used for project facilities during the feasibility assessment and operations phases, if different;
 - (v) 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;
 - (vi) estimated water depletion and brine depletion; and
 - (vii) plan to determine rate of extraction for the targeted and non-targeted minerals or elements and estimated rate of depletion of the targeted and non-targeted minerals or elements in GSL;
 - (b) withdrawal information:
 - (i) names and locations of the brine water and externally sourced water where 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 brine water and externally sourced water withdrawn;~~and~~
 - (iii) detailed information on the timing of the withdrawals; and
 - (iv) detailed description of the operator's plan for measuring the amount of brine water, externally sourced water, and returned water.
 - (c) discharge information:
 - (i) 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;

(ii) for operations that are non-discharging during the feasibility assessment, a determination of whether discharge will occur during the operations phase and an evaluation of how the operator will obtain information to characterize its operations discharge during the feasibility assessment.

(d) impacted habitat:

(i) description of existing GSL habitat and biota in and around the area of operation;

(ii) description of the potential physical impact to habitat and biota in and around the withdrawal and discharge locations;

(iii) evaluation of the least degrading reasonable alternatives;

(iv) plan to mitigate any negative impacts of the proposed operation; and

(v) plan to ensure existing beneficial uses will be maintained and protected.

(e) monitoring and inspection plan:

(i) a description of the methods and means to monitor the quality and characteristics of the discharge and the operation of the equipment or facilities employed in control of any proposed discharge;

(ii) plan to monitor and address long-term cumulative effects of withdrawals and discharges associated with the operation on the biota and chemistry of the GSL including available baseline data; and

(iii) a map showing the locations of proposed monitoring points.

(f) evidence supporting the operator certification:

(i) consideration of both short-term effects and long-term impacts of the project;

(ii) examples of evidence supporting a certification may include:

(A) a quantitative comparison of influent and effluent volume and chemical composition;

(B) modeled annual impacts to salinity or concentrations of other ~~[important]~~ chemical parameters in GSL;

(C) evaluation of impacts to GSL biota including:

(I) a quantitative comparison of effluent chemical concentrations to applicable water quality standards; or

(II) other scientifically defensible biological response thresholds;

(D) other scientifically defensible means for evaluating project impacts on GSL chemistry and biota.

R317-16-4. Operations Application Procedures.

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

(2) The operator shall submit an application for operator certification approval simultaneously with the application to FFSL pursuant to Subsection 65A-6-4(6)(b)(iii).

(3) Applications for operator certification approval shall be submitted on the form provided by the division. Unless extended in writing by the division, the operator must obtain all information submitted with the application within one year of filing the application.

(4) The operator shall submit a UPDES application simultaneously with the application for operator certification approval. UPDES permit approval is not a certification decision. The director shall issue a certification decision separate from a UPDES permit.

(5) Within 45 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, the division shall notify the operator of the missing information.

(a) An operator may submit the missing information within 45 days after the division's notice of incompleteness.

(b) The division may administratively deny an incomplete application not remedied within 45 days, and the operator must resubmit a new application for operator certification approval.

(6) The operator shall notify the director in writing of changes that may affect the application for operator certification.

(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 full 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.

(8) The operator is responsible for payment of hourly fees, established pursuant to Subsection 19-1-201(6)(i). The operator shall submit a fee retainer, specified in the application form, together with its application for certification approval. The division will not begin review of the application for certification approval until it has received the fee retainer. The division will invoice the operator on a routine basis, and may stop review of the application for nonpayment.

R317-16-5. Operations Application Content.

Unless otherwise determined in writing by the director, the application for operator certification approval shall include the following:

(1) all information required under Subsection R317-16-3(4), revised and updated to reflect the scale of the operations design;

(2) a summary of any changes made as a result of the feasibility assessment;

(3) a summary of findings establishing the operator's feasibility assessment had no negative impact on the biota or chemistry of GSL;

- (4) all data and data analysis related to GSL biota and chemistry derived from the feasibility assessment;
- (5) a UPDES permit application;
- (6) any other information related to the operation's impact to the biota or chemistry of GSL, as requested by the director; and
- (7) a statement that the proposed project will not negatively impact the biota or chemistry of GSL.

R317-16-6. Draft Certification Decision.

- (1) Within 60 days of receiving a complete application for operator certification approval, the director shall issue a draft certification decision.
- (2) The draft certification decision shall be subject to a public notice and comment period of at least 30 days.
- (3) The division will 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 director 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) Public notice of a public hearing shall be given at least seven days in advance of the hearing. Public notice of a hearing may be combined and provided at the same time as public notice of any of the following:
 - (a) a draft certification decision issued under this rule;
 - (b) a draft UPDES permit issued under Rule R317-8; or
 - (c) a draft water quality certification issued under Rule R317-15.
- (6) The director shall consider the comments received during the public notice and comment period in finalizing the certification decision.

R317-16-7. Certification Decision.

- (1) After review of the application for operator certification approval and consideration of comments received during the public notice 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.

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

- (1) An operator certification approval shall be effective for a term of ten years.
- (2) An operator shall submit an application for operator certification approval to renew its operator certification approval no later than 180 days before the expiration of the certification approval.
 - (a) If an operator certification approval lapses before the director issues a certification decision on a timely renewal application, the operator certification approval will continue until the director issues a certification decision on the renewal application.
 - (b) Review of the operator's application to renew its operator certification approval will follow all procedures specified in this rule.
 - (c) Failure to submit an application for operator certification approval to renew shall, on the certification approval's expiration date, result in a lapse of the operator certification approval.
 - (d) The director will notify the operator and FFSL of the lapse. The director's notification is not a permit order.

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

- (1) If any of the following occur, the director may notify the operator that it must resubmit, within 60 days, an application for operator certification approval for reevaluation:
 - (a) the operator's failure to fully disclose all relevant facts in the application;
 - (b) the operator's misrepresentation of any relevant fact at any time;
 - (c) existence of evidence that the operation is negatively impacting the biota or chemistry of GSL;
 - (d) request for a major modification in the operator's UPDES permit as defined by Subsection R317-8-56;
 - (e) lapse of the operator's certification approval; or
 - (f) the emergency trigger as defined in Subsection 65A-17-101(5)[R652-21-1403].
- (2) The reevaluation will follow all procedures specified in this rule.

R317-16-10. Transfer of Operator Certification Approval For Non-Discharging Operations.

(1) For non-discharging operations, 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 operator establishing a specific date for transfer of certification responsibility.

(3) The notice shall contain the following contact information:

(a) legal name, permanent address and telephone number;

(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.

R317-16-11. Effect of Operator Certification Approval on Other Required Permits.

(1) Operator certification approval does not exempt the operator from complying with or obtaining any other permits required by federal, state, or local law.

(2) An operator certification approval is required in addition to a 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

!--dar--



Review and Approval for Change in Proposed Rule

R317-16

(Great Salt Lake Mineral Extraction Facility Operator Certification Approval)


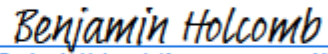
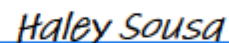

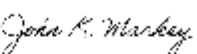

Document #DWQ-2024-003470

Subject: R317-16 Change in Proposed Rule with text modifications

EQDocs File Path: \Administration\01Water Quality Board\Rules\R317-16\DWQ-2024-003470

Link: <https://ir.deq.utah.gov/lawerfiche/browse.aspx?repo=dwq#?id=143421>

- Please review the above form and text, then sign below if approved for submission to the Utah Department of Government Operations, Office of Administrative Rules. The Water Quality Board approved these changes at the April 2024 meeting. They want to file before May 1st.

Initiator 04/29/2024	Comments	Signature  James Harris (Apr 29, 2024 12:34 MDT)
Section Manager 04/30/2024	Comments	Signature  Benjamin Holcomb (Apr 30, 2024 10:14 MDT)
Attorney General's Office 04/29/2024	Comments	Signature  Haley Sousa (Apr 29, 2024 11:49 MDT)
Assistant Director 04/29/2024	Comments	Signature  Leanna Lottier (Apr 29, 2024 14:48 MDT)
Director 04/29/2024	Comments	Signature 
Rule Coordinator 04/30/2024	Comments This was submitted to OAR today	Signature 



Judy Etherington <jetherington@utah.gov>

Change in Proposed Rule R317-16

Kim Shelley <kshelley@utah.gov>

Thu, May 2, 2024 at 8:42 PM

To: Judy Etherington <jetherington@utah.gov>

Hi Judy,

Thanks for the opportunity to review. I'm fine with DWQ moving forward with the resubmittal.

Kim



Kim Shelley

Executive Director | Department of Environmental Quality

Mobile: (801) 231-4248

Office: (801) 536-4404

deq.utah.gov

Emails to and from this email address may be considered public records and thus subject to Utah GRAMA requirements.

[Quoted text hidden]

ATTACHMENT

SUMMARY OF COMMENTS AND RESPONSES TO R317-16 PUBLIC NOTICE

Commenter Name	Topic	Rule Section Number and Page Number	Suggested Revisions	Response
US Magnesium	General	R317-16	<p>Do your rules specifically address the requirements of 73-33-203 Measuring volume and quality of water?</p> <p>(3)(a) On or before June 1, 2025, the Division of Water Quality, in consultation with the Division of Forestry, Fire, and State Lands, and in cooperation with the Great Salt Lake commissioner pursuant to Section 73-32-203, shall make a rule, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, setting a limit for the salinity of water or brine that a person may discharge into the Great Salt Lake as part of the mineral or element extraction process.</p> <p>(b) If a person discharges water or brine that exceeds the limit imposed under Subsection (3)(a), the Division of Water Quality may modify, revoke and reissue, or terminate any permit issued by the Division of Water Quality related to the discharge.</p> <p>(4) A person shall keep a record required under this section for a period of at least five years from the day on which the record is made.</p> <p>I see the permit application and monitoring requirements, but not a specific reference to setting individual discharge salinity limits.</p>	<p>Utah Admin. Code R317-16 is limited to specifically addressing the requirements from Great Salt Lake Amendments, H.B. 513, 2023 Gen. Sess. (Ut. 2023). This rule does not address the requirements in Utah Code § 73-33-203 stemming from Great Salt Lake Revisions, H.B. 453, 2024 Gen. Sess. (Ut. 2024). The Division of Water Quality will work with the Water Quality Board to address the requirements regarding salinity limits for discharges in a separate rule on or before June 1, 2025.</p> <p>No changes to the rule were made as a result of this comment.</p>

League of Women Voters	General	R317-16	<p>I have looked over the revised draft rules, and it looks like it addresses one of my concerns - that any water used by the operator is returned to the lake so that there is no net loss of water in GSL. Is this correct?</p>	<p>Utah Admin. Code R317-16 does not require a demonstration of no net loss of water in Great Salt Lake. A prior draft of the rule language did include such a requirement. However, Great Salt Lake Revisions, H.B. 453, 2024 Gen. Sess. (Ut. 2024) removed the requirement that the operator demonstrate no net loss.</p> <p>The rule does require the operator to report on water and brine depletion. This reporting requirement will assist the Division with evaluating potential short and long-term negative impacts to chemistry and biota of Great Salt Lake.</p> <p>No changes to the rule were made as a result of this comment.</p>
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State of Utah

SPENCER J. COX
Governor

DEIDRE HENDERSON
Lieutenant Governor

Department of Environmental Quality

Kimberly D. Shelley
Executive Director

DIVISION OF WATER QUALITY
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Robert Fehr
Jill Jones
Kimberly D. Shelley
John K. Mackey
Executive Secretary

MEMORANDUM

TO: Utah Water Quality Board

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

FROM: Ben Holcomb, Standards & Tech Services Section Manager

DATE: June 26, 2024

SUBJECT: Request to initiate informal rulemaking necessary to address HB453

Background

During the 2024 Utah legislative session, the legislature passed [HB 453 “Great Salt Lake Revisions”](#), which addresses various Great Salt Lake related activities and improvements. Pertinent to the Division of Water Quality (DWQ), the bill requires that “on or before June 1, 2025, the Division of Water Quality, in consultation with the Division of Forestry, Fire, and State Lands, and in cooperation with the Great Salt Lake commissioner... shall make a rule... setting a limit for the salinity of water or brine that a person may discharge into the Great Salt Lake as part of the mineral or element extraction process.” DWQ has begun scoping the potential approaches to comply with the bill and is requesting approval from the Board to begin informal rulemaking and stakeholder engagement to develop draft rule language. We anticipate having a draft rule sometime in the Fall of 2024 for informal public comment.

DWQ seeks to engage with interested stakeholders over the next few months and DWQ requests the Board nominate 2-3 individuals from its members who would be willing to participate in the stakeholder engagement process.

Proposed Rulemaking Timeline

January 2025: Request WQB to initiate formal rulemaking:
February 2025: 30-day public comment period
May 2025: Request WQB to formally adopt R317-16 into rule



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John K. Mackey
Executive Secretary

MEMORANDUM

TO: Water Quality Board

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

FROM: Justine Marshall

DATE: June 26, 2024

SUBJECT: Request for Approval of Administrative Settlement Agreement
Spanish Fork City Corporation, Docket No. M23-04

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 ("Board"). The Division is requesting Board approval to execute a settlement with Spanish Fork City Corporation.

Spanish Fork City Corporation ("Spanish Fork") is a municipality located in Utah County, Utah, and is the legal owner and operator of the Spanish Fork Wastewater Treatment Plant ("Facility") located at 2160 North 150 East, Spanish Fork, Utah 84660 in Utah County. The Facility is authorized to discharge into Dry Creek and to the Provo Bay area of Utah Lake through UPDES Permit No. UT0020109 ("Permit").

On November 8, 2023, the Director issued Notice of Violation and Compliance Order ("NOV/CO") M23-04 to Spanish Fork City for violations of the Permit occurring during years 2020-2023; largely for effluent limit violations (dissolved oxygen, ammonia, *E. coli*, total suspended solids and biochemical oxygen demand) as well as late discharge monitoring reports.

To formally resolve the violations, the Division and Spanish Fork have negotiated a civil penalty of \$35,860.00 as stipulated in the Administrative Settlement Agreement ("ASA") M23-04. Attached for your reference is the proposed ASA.

The terms of the financial settlement in Docket No. M23-04 are as follows:

Penalty	\$34,760.00
Administrative Cost Reimbursement to DWQ	\$1,100.00
Total Civil Penalty	\$35,860.00

The public comment period for the proposed Administrative Settlement Agreement was open from April 26, 2024 to May 28, 2024. No public comments were received. (<https://deq.utah.gov/water-quality/spanish-fork-wastewater-treatment-plant>).

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:

Spanish Fork City Corporation
Wastewater Treatment Plant
UPDES Permit No. UT0020109

**ADMINISTRATIVE SETTLEMENT
AGREEMENT**

Docket No. M23-04

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 Spanish Fork City Corporation ("Spanish Fork") in its capacity as the owner or operator legally responsible for the operation of the Spanish Fork Wastewater Treatment Plant located at 2160 North 150 East, Spanish Fork, Utah 84660 ("Facility"), jointly referred to hereafter 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 *et seq.* (the "Act"), and corresponding regulations in the Utah Admin. Code R317-1-1 *et seq.* ("Water Quality Rules") and R305-7-101 *et seq.*

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 through the issuance of orders, as specified in Utah Code §§ 19-5-106(2)(d) and 19-5-111. 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. Spanish Fork 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 November 8, 2023 Notice of Violation and Compliance Order ("NOV/CO"), Docket No. M23-04, and as described below.
4. Pursuant to the NOV/CO, paragraph E.3., on December 4, 2023, Spanish Fork submitted a written response describing their evaluation of what caused the cited violations, as well as describing in detail the actions taken and to be implemented to attain full compliance with their Utah Pollutant Discharge Elimination System ("UPDES") Permit.
5. On January 27, 2022, Spanish Fork communicated to the Division that they anticipate the Facility will meet the effluent limits for dissolved oxygen but that ammonia concentrations will continue to be a challenge until the new Water Reclamation Facility ("WRF") is constructed.
6. On February 5, 2024, Spanish Fork submitted a request to the Division to adjust the

compliance schedule in the UPDES Permit to match the construction timeline for the new WRF, due to be completed in Summer of 2025.

7. UPDES Permit Part I.C.2.a. contains effluent concentration limitations for pollutant discharges from Outfall 001 at the Facility. Since the issuance of the NOV/CO, the Facility has experienced the following limitation exceedances (identified in ***bold italics***):

Report Certification Date	Monitoring Period End Date	Pollutant Parameter	Effluent Limitation	Reported Value	% Exceedance
PERMIT EFFECTIVE FEBRUARY 01, 2022 (EXP. JANUARY 31, 2027)					
11/22/2023	10/31/2023	Dissolved Oxygen (Daily Minimum)	5.0 mg/L	<i>4.4 mg/L</i>	12%
11/22/2023	10/31/2023	Ammonia, as N (Daily Maximum)	18.0 mg/L	<i>19.6 mg/L</i>	9%
12/20/2023	11/30/2023	Dissolved Oxygen (Daily Minimum)	5.0 mg/L	<i>4.0 mg/L</i>	20%
12/20/2023	11/30/2023	Ammonia, as N (Daily Maximum)	18.0 mg/L	<i>23.8 mg/L</i>	32%
01/17/2024	12/31/2023	Dissolved Oxygen (Daily Minimum)	5.0 mg/L	<i>4.8 mg/L</i>	4%
01/17/2024	12/31/2023	Ammonia, as N (Daily Maximum)	18.0 mg/L	<i>28.8 mg/L</i>	60%
01/17/2024	12/31/2023	Ammonia, as N (Max Monthly Ave)	6.0 mg/L	<i>24.3 mg/L</i>	306%

8. The Parties voluntarily enter into this Settlement to resolve the NOV/CO and the additional exceedances listed in paragraph 7 without the necessity of further administrative or judicial proceedings.
9. Spanish Fork agrees to pay a civil penalty in the amount of **\$35,860.00**, based on the Division's application of the penalty policy outlined in Utah Admin. Code R317-1-8.
10. This Settlement and penalty is subject to a thirty (30) 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.
11. The "Effective Date" shall be the date this Settlement is executed by the Director. The Director will not sign this Settlement until after the Division has provided public notice of the proposed Settlement and has solicited and reviewed any public comments received.
12. This Settlement includes a civil penalty in excess of \$25,000 and therefore must be presented to, reviewed by, and approved or disapproved by the Water Quality Board ("Board") in accordance with Utah Code § 19-5-104(3)(h). Final execution of this Settlement by the Director shall not occur until it is approved by the Board. The Settlement will be presented to the Board for final action after the Division has provided public notice of the proposed Settlement 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.

13. Spanish Fork agrees that within thirty (30) calendar days of receiving the signed and final Settlement from the Director, Spanish Fork 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

14. If, for any reason, Spanish Fork fails to pay the penalty within thirty (30) calendar days and thereby defaults, the Director reserves the right to request the Board rescind its approval of this Order under Utah Code § 19-5-104(4)(a).

- a. Prior to requesting that the Board rescind its approval of this Order, the Director shall provide written notice to Spanish Fork of its default and will provide fourteen (14) calendar days to cure the default by remitting payment. If payment is not received within the fourteen (14) calendar day cure period and, following Board action, the Director is authorized, without providing further written notice to Spanish Fork, to begin a civil action for all appropriate relief provided under the Act, including seeking the full penalty amount of \$10,000 per violation per day, as authorized under the Act.

15. Spanish Fork agrees to the terms, conditions, and requirements of this Settlement. By signing this Settlement, Spanish Fork 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.

16. The Parties mutually agree that this Settlement is entered in good faith and is an appropriate means to resolve the matters specified herein.

17. The violations described herein will constitute part of Spanish Fork compliance history where such history is relevant, including any subsequent violations. Spanish Fork 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.

18. This Settlement, when final, is binding upon Spanish Fork 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 SPANISH FORK CITY CORPORATION

By: _____
Title: MAYOR
Date: 4-16-2024

Attest:



Tara Silver
TARA SILVER, CITY RECORDER



State of Utah

SPENCER J. COX
Governor

DEIDRE HENDERSON
Lieutenant Governor

Department of Environmental Quality

Kimberly D. Shelley
Executive Director

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John K. Mackey
Executive Secretary

TO: Water Quality Board
THROUGH: John K. Mackey, P.E.
FROM: George Meados & Ken Hoffman, P.E.
DATE: June 26, 2024
SUBJECT: Sherwood Shores Deauthorization

On December 14, 2022, the Water Quality Board (Board) authorized \$595,000 of America Rescue Plan Act (ARPA) funds for the community of Sherwood Shores near Delta, Utah for construction of a community sewer system. The December 14, 2022 Board Packet is included as Attachment A. On January 24, 2024 the ARPA funding was re-authorized with 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; and
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.

Sherwood Shores was unable to garner public support for this project to meet the special conditions. Attachment B is an email from Millard County discontinuing funding. At this time Sherwood Shores no longer has a path forward to pursue a project that will meet the ARPA deadlines set by the US Department of Treasury. The Division spoke with Millard County regarding any costs incurred while pursuing this project, but they do not wish to pursue any funds for these costs.

Staff Recommendation

Staff requests the Board motion to deauthorize the \$595,000 of Southern Utah Reuse ARPA Grant Program funds from Sherwood Shores.

Attachment A: December 14, 2022 Board Packet



State of Utah

SPENCER J. COX
Governor

DEIDRE HENDERSON
Lieutenant Governor

Department of Environmental Quality

Kimberly D. Shelley
Executive Director

DIVISION OF WATER QUALITY
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Robert Fehr
Jill Jones
Kimberly D. Shelley
John K. Mackey
Executive Secretary

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.

Attachment B: Email from Willard County

ATTACHMENT B

6/6/24, 12:00 PM

State of Utah Mail - Sherwood Shores Project (ARPA Funds) - Update



George Meados <gmeados@utah.gov>

Sherwood Shores Project (ARPA Funds) - Update

Adam Richins <ARichins@co.millard.ut.us>
To: George Meados <gmeados@utah.gov>

Fri, May 31, 2024 at 11:24 AM

George,

Thank you for your efforts to assist with the Sherwood Shores Reuse Project. As of today, we have been unsuccessful in creating the required body politic needed to use the ARPA funds. Please let me know if additional information is needed for the Board so they can move the funds to other projects.

Thanks,

Adam Richins

Adam P. Richins
Millard County Planner,
Zoning Administrator,
& Building Official
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State of Utah

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Department of Environmental Quality

Kimberly D. Shelley
Executive Director

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Robert Fehr
Jill Jones
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John K. Mackey
Executive Secretary

TO: Water Quality Board
THROUGH: John K. Mackey, P.E. & Leanna Littler-Woolf
FROM: Andrew Pompeo, P.E. & Ken Hoffman, P.E.
DATE: June 26, 2024
SUBJECT: Re-authorization of available Southern Utah Reuse ARPA Grant Balance

This memo was prepared in anticipation that the Water Quality Board will move to deauthorize \$595,000 in Southern Utah Reuse ARPA Grant Fund from the Sherwood Shores Project. There are also \$800 that were not appropriated initially during the December 14, 2022 meeting. The deauthorization would leave \$595,800 in available balance in the Southern Utah Reuse ARPA Grant Program.

Staff identified three options for re-authorization of these funds.

1. Open a new grant solicitation for the available balances of \$595,800 for applications.
 - a. Applications due by August 14, 2024.
 - b. Require all applications to have complete plans and specifications in compliance with R317-3-1.4.
 - c. Applicant must demonstrate their project will bid and execute construction contracts by December 31, 2024.
2. Open a new grant solicitation for previously authorized Southern Utah Reuse projects that would appear at the September Board meeting to request additional funds.
 - a. Applications due by August 14, 2024.
 - b. Require all applications have complete plans and specs in compliance with R317-3-1.4.
 - c. Applicant must demonstrate project will bid and execute construction contracts awarded by December 31, 2024.
3. The Board could select a project of directly from the previously authorized projects and authorize additional funding.

The table below shows all previously authorized Southern Utah Reuse projects along with their total project cost and amount of authorized funds. Total project costs may have changed.

Applicant	Project Title	Authorized Funding	Total Project
Ash Creek SSD	Filters and Ultraviolet Treatment	\$1,688,200	\$2,413,200
Cedar City	Filtration, Reuse Pump Station and Pipeline	\$1,354,000	\$15,000,000
CICWCD	Storage and Reuse Land Application	\$500,000	\$1,500,000
Fairview	Type I Reuse System	\$1,168,000	\$3,200,000
Kanab	Reuse Planning Study	\$125,000	\$145,000
Moroni	Reuse Planning Study	\$90,000	\$90,000
Mt. Pleasant	Reuse Planning Study	\$125,000	\$125,000
St. George	Graveyard Wash Reuse Storage Reservoir	\$1,934,000	\$17,000,000
Torrey Town	Reuse Planning Study	\$75,000	\$75,000
WCWCD	Dry Wash Reuse Storage Reservoir	\$2,369,000	\$17,500,000
WCWCD	Toquer Reservoir Reuse Storage Reservoir	\$4,976,000	\$36,570,000
TOTAL		\$14,404,200	
Sherwood Shores	MBR Treatment and Land Application	\$595,000	\$850,000

Staff Discussion

Of all the previously funded projects listed above, there are four projects that were not fully funded at the time of authorization. These projects are: Cedar City, St. George (Graveyard Wash Reservoir), and both of WCWCD's projects (Chief Toquer Reservoir and Dry Wash Reservoir). Also, it may be possible that a new eligible project exists that could apply. If other eligible projects exist and are "shovel ready" with ready plans and specifications, then staff believes they should be considered for funding evaluation. Thus, staff believes conducting a new solicitation is appropriate.

Staff Recommendation

Staff requests Board approval to move proceed with a grant solicitation for \$595,800 in available balances for Grant Program eligible projects inclusive of previously funded and new Southern Utah Reuse projects. The grant solicitation will have the following requirements:

1. Applications due by August 14, 2024.
2. Require all applications have complete plans and specs in compliance with R317-3-1.4.
3. Applicant must demonstrate project will bid and execute construction contracts awarded by December 31, 2024.
4. Meet all previous grant program requirements from original solicitation.

Project will be presented by applicants during the September Board Meeting.



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Executive Secretary

MEMORANDUM

TO: Utah Water Quality Board

THROUGH: John Mackey, P.E., Director Utah Division of Water Quality

FROM: Jake Vander Laan

DATE: June 26, 2024

SUBJECT: Results from the 2023 Triennial Review of Utah's Water Quality Standards

To meet obligations under the Clean Water Act, the Utah Division of Water Quality (DWQ) is required to review Utah's Water Quality Standards (WQS) in Utah Administrative Code R317-2 at least once every three years. DWQ has completed the 2023 Triennial Review of Utah's WQS, following stakeholder and public outreach. DWQ performed a comprehensive review of all of Utah's water quality policies and criteria, including a comparison of the state's WQS to nationally recommended standards, to identify and prioritize needed additions and updates. DWQ also sought input through a collaborative engagement process with stakeholders; state and federal agencies; and the public to identify any recommended changes to Utah's WQS.

DWQ has reviewed and responded to all comments and criteria recommendations; and provided an up to date priority list for WQS changes. Though the review identifies and prioritizes future WQS changes, no new or updated WQS are proposed for immediate adoption as part of the 2023 Triennial Review. The 2023 Triennial Review identifies short-term goals for WQS changes expected before the 2026 Triennial Review; interim goals to support future water quality standards changes; and long-term priorities.

A report summarizing the results of Utah's 2023 Triennial Review is attached. The document includes a summary of the process and findings from the review; comments received and DWQ's responses; information regarding DWQ's public engagement including public notices, postcards, and a public hearing summary; and DWQ's updated WQS priority list. The results of the review will also be submitted to EPA.