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
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

August 28, 2024
Board Meeting Begins at 8:30 AM

AGENDA

Water Quality Board Meeting – Call to Order & Roll Call — **James Webb**

Minutes:

Approval of Minutes for April 23, 2024 Water Quality Board Meeting — **James Webb**

Executive Secretary Report — **John K. Mackey**

Compliance & Enforcement:

1. Request Approval of Administrative Settlement Agreement-Spanish Fork Corporation — **Samantha Heusser**

Rule Making:

1. Petition for Rule Change-Proposed Amendments to Utah Administrative Code Rule 317-8 — **Leanna Littler-Woolf**
2. Request to Adopt Rule: R317-16 GSL Mineral Extraction Facility Operator — **Ben Holcomb**
3. Request to Initiate Informal Rulemaking Necessary to Address HB453 — **Ben Holcomb**
4. Request to Initiate Rulemaking to Revise and Amend Utah Administrative Code Rule 317-8-1. General Provisions and Definitions — **Danielle Lenz**

Funding:

1. Financial Status Report — **Emily Canton**
2. Town of Fairfield Planning Advance Authorization — **Andrew Pompeo**
3. North Fork SSD Wastewater Treatment Upgrades Introduction — **George Meados &Ken Hoffman**
4. Beaver City Sewer & Wastewater Upgrades Introduction — **Skyler Davies**
5. Corrine Sewer Improvements Introduction — **Beth Wondimu & Ken Hoffman**
6. Grantsville City New Wastewater Treatment Plant Introduction — **Glen Lischeske**
7. Provo Water Reclamation Facility Upgrades Introduction — **George Meados &Ken Hoffman**

ARPA Funding:

1. Sherwood Shores Deauthorization — **George Meados & Ken Hoffman**
2. Re-Authorization of Available Southern Reuse ARPA Grant Funds — **Andrew Pompeo**

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 lwyss@utah.gov at least five working days prior to the scheduled meeting.

Other:

Public Comment Period

Meeting Adjournment **James Webb**

Next Meeting
September 25, 2024 at 8:30 am
MASOB & Via Zoom
195 North 1950 West
Salt Lake City, Ut 84116

DWQ-2024-006053

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John K. Mackey
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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
Mayor Kaufusi
Robert Fehr
Jill Jones
Joe Havasi
John Mackey
Michela Harris
Trevor Heaton

Excused
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

PENDING

OTHERS PRESENT & ONLINE

Matt Goodrich	Paul Bittman
Chad Burrell	Michael Chandler
Gary Vance	Steve Jackson
Curtis Page	Kendra Norman
M. Simmons	
Jill Burton	
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

PENDING

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.

PENDING

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.

PENDING

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

PENDING

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John K. Mackey
Executive Secretary

UTAH DEPARTMENT OF ENVIRONMENTAL QUALITY
UTAH WATER QUALITY BOARD
MASOB
and
Via Zoom

June 26, 2024
8:30 am Meeting – CANCELLED

The meeting scheduled for June 26, 2024 did not have a quorum present and as such, was not a "meeting" per Utah Code § 52-4-103(5). As a result, the Water Quality Board did not receive public comment; deliberate; or take action on any relevant matters. However, the members present did hear informational items that did not require any action to be taken. The following information describes those informational items.

UTAH WATER QUALITY BOARD MEMBERS PRESENT

Kim Shelley
Robert Fehr
Joe Havasi
Trevor Heaton

Excused

Michela Harris
Jill Jones
James Webb
Michelle Kaufusi

DIVISION OF WATER QUALITY STAFF MEMBERS PRESENT

John Mackey	George Meados	Amy Dickey
Ken Hoffman	Alex Heppner	Eric Castrejon
Allie Rockhill	Tessa Scheuer	Jen Berjikian
Clanci Hawks	Benj Morris	Glen Lischeske
Adrianna Hernandez	Samuel Taylor	Judy Etherington
Paul Burnett	Linsey Shafer	
Alan Ochoa	Brendon Quirk	
Leanna Littler-Woolf	Jake Vanderlaan	
Jacob Ridgway	Chris Shope	
Justine Marshall	Amber Loveland	

Andrew Pompeo	Jen Robinson
Samantha Heusser	Dave Pierson
Jodi Gardberg	Jeff Kolmel

OTHERS PRESENT & ONLINE

Liz Harris
Haley Sousa
Soren Simonson
Rob Dubuc
Dave Torgerson
Tim Davis

ROLL CALL

Mr. Mackey, the Executive Secretary, addressed the four (4) present Board Members and explained that due to the lack of a Quorum, which consists of five (5) Board members in attendance, the meeting could not be called to order. Mr. Mackey asked that the informational presentations still take place as no action is required of the Board.

INFORMATIONAL PRESENTATIONS

- **2024 Integrated Report** – Mr. Alan Ochoa of DWQ's Watershed Protection Section presented the 2024 Integrated Report as indicated in the packet.
- **Nonpoint Source Program Annual Report** – Mr. Paul Burnett of DWQ's Watershed Protection Section presented the Nonpoint Source Program Annual Report as indicated in the packet.
- **2023 Triennial Review** – Mr. Jake Vanderlaan of DWQ's Standards Section presented the results from the 2023 Triennial review as indicated in the packet.

APPROVAL OF MINUTES OF April 23, 2024 BOARD MEETING

The Board will proceed to approve the April 23, 2024 Meeting Minutes on August 28, 2024.

EXECUTIVE SECRETARY REPORT

Mr. Mackey did not present the Executive Secretary's Report.

OTHER

N/A

PUBLIC COMMENTS

N/A

MEETING ADJOURNMENT

N/A

Next Meeting – August 28, 2024
Meeting begins at 8:30 am

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

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

_____
, Chair
Utah 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
John K. Mackey, P.E.
Director

Water Quality Board
Steven K. Earley, Chair
James Webb, Vice Chair
Carly Castle
Brandon Gordon
Michela Harris
Joseph Havasi
Trevor Heaton
Michael D. Luers
Kimberly D. Shelley
John K. Mackey
Executive Secretary

M E M O R A N D U M

TO: Water Quality Board

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

FROM: Samantha Heusser

DATE: August 28, 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:	**ADMINISTRATIVE SETTLEMENT AGREEMENT**
Spanish Fork City Corporation Wastewater Treatment Plant UPDES Permit No. UT0020109	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	***4.4 mg/L***	12%
11/22/2023	10/31/2023	Ammonia, as N (Daily Maximum)	18.0 mg/L	***19.6 mg/L***	9%
12/20/2023	11/30/2023	Dissolved Oxygen (Daily Minimum)	5.0 mg/L	***4.0 mg/L***	20%
12/20/2023	11/30/2023	Ammonia, as N (Daily Maximum)	18.0 mg/L	***23.8 mg/L***	32%
01/17/2024	12/31/2023	Dissolved Oxygen (Daily Minimum)	5.0 mg/L	***4.8 mg/L***	4%
01/17/2024	12/31/2023	Ammonia, as N (Daily Maximum)	18.0 mg/L	***28.8 mg/L***	60%
01/17/2024	12/31/2023	Ammonia, as N (Max Monthly Ave)	6.0 mg/L	***24.3 mg/L***	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:

MUNICIPAL SEAL EST. 1855 SPANISH FORK UTAH

Tara Silver
TARA SILVER, CITY RECORDER

State of Utah
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M E M O R A N D U M

TO: The Utah Water Quality Board

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

FROM: Leanna Littler-Woolf, Assistant Director

DATE: August 28, 2024

SUBJECT: Petition for Rule Change- Proposed Amendments to Utah Administrative Code Rule 317

On July, 18, 2024, John K. Mackey, P.E. in his capacity as the Executive Secretary of the Utah Water Quality Board (Board) received a petition titled "Petition for Rule Change-Proposed Amendments to Utah Administrative Code Rule 317" submitted by Wasatch Front Water Quality Council (Petitioners) (Attachment 1). Utah Code 63G-3-601 (6) requires the Board place a petition on its agenda for review within 45 days of the submission; and within 80 days either deny the petition in writing stating its reasons for denial or initiate rulemaking proceedings. A copy of 63G-3-601 is provided as Attachment 2.

The Petitioners identified themselves as a coalition of wastewater treatment plants along the Wasatch Front who are subject to Utah Pollutant Discharge Elimination System (UPDES) permits. The Petitioners cited concerns regarding permitting challenges their members had faced in recent permit renewal cycles as the reason for their proposal. The Petitioners proposes adding the following requirements to Utah Administrative Code R317-8 to address their concerns:

1. Require the Division of Water Quality (Division) to circulate a pre-publication Draft UPDES permit 30 days before the permit is released for public comment.;
2. Require the Division to include a schedule of compliance in all UPDES permits when a renewal or modified permit for a publicly-owned treatment works results in effluent limitations more stringent or imposes new effluent limitations.; and
3. Require that the Division issue final permit renewals at the end of the calendar year or reporting period (e.g. quarter) rather than in the middle of the reporting period.

The Division has reviewed and evaluated the Petitioner's requests and determined that they would pose significant operational challenges and would prevent the Division from implementing important protections to water quality in a timely manner. A detailed review of each specific request is set forth below.

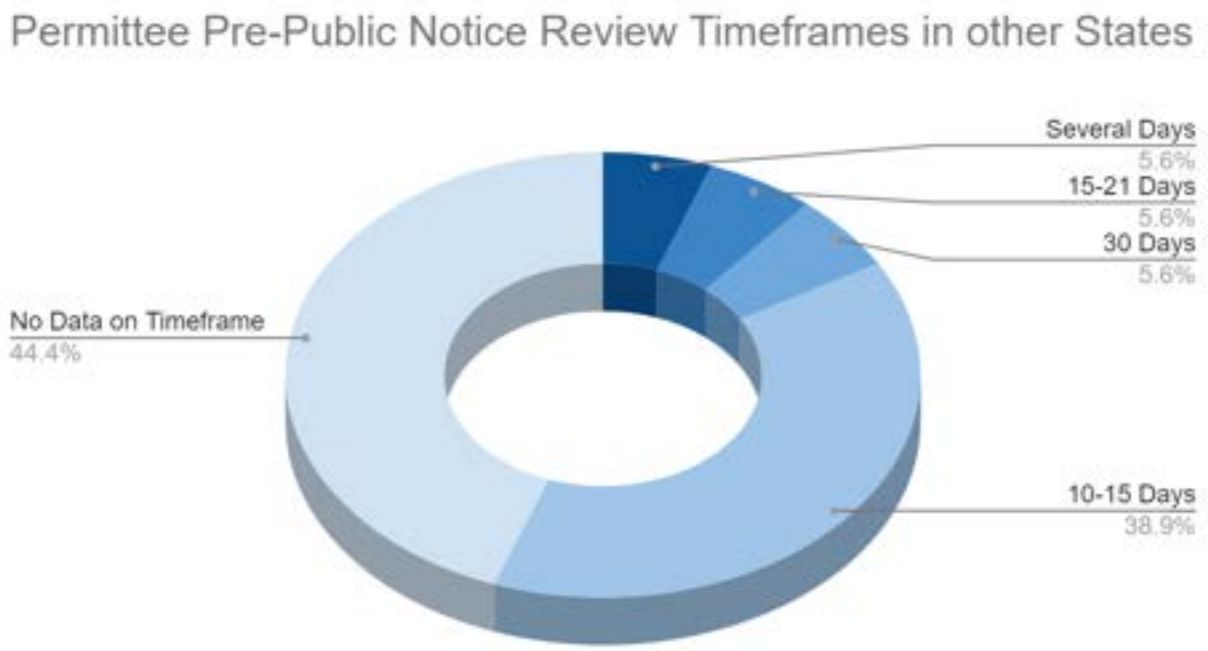
30-Day Pre-Public Notice Draft

The request to require a 30-day pre-public notice review of Draft Permits by Permittees creates redundancies and inefficiencies in the permitting process; impacts how quickly the Division can issue permits; and ultimately unnecessarily delays important protections to water quality.

Although current regulations do not require that a Draft permit be provided to the Permittee prior to the public comment period, the Division's current policy is to provide the Draft Permit to the Permittee for review for a minimum of 7 days prior to public notice to allow the Permittee to provide informal comments. This review period is often extended upon request. Once the Draft Permit is published for public comment, the Permittee then has an additional 30-day period to review the Draft permit and submit formal comments through the public comment review process outlined in Utah Admin. Code R317-8. The Permittee may also request an extension of the public comment period if they feel additional time to review or comment is necessary. Prior to issuance of a Final Permit, the Division is required to consider and respond to all formal comments submitted during the public comment period, including any comments from the Permittee.

The Division reviewed available information, primarily from Permit Quality Review (PQR) Reports issued by EPA, to determine what other States' processes may be in regard to providing a pre-public notice review to Permittees. The Division identified 18 other states that allow the applicant to review the Draft Permit prior to public notice. The Division found that seven (7) of the States allowed for a review between 10 - 15 days; 1 allowed for 15-21 days; and 1 allowed for 30 days. The remaining eight (8) states did not specify the time provided for review.

Chart 1. Data pulled from PQRs on other States pre-public notice reviews processes.



Based on available information, it appears the Division's current policy of providing a 7-day pre-public notice review period (with the possibility for extension when requested) is consistent with most other states' practices that provide this review period.

In addition, on several occasions the Environmental Protection Agency (EPA) has verbally stated they have concerns with the Division's current policy of allowing Permittees to review Draft Permits prior to public notice and the Utah Legislature has repeatedly emphasized the importance of issuing permits quickly and efficiently. Recognizing these concerns, the Division feels that its current 7-day pre-public notice review policy best balances stakeholders' differing interests in the permitting process. It ensures that the permitting process moves quickly and efficiently through the required public comment process, while also allowing flexibility for additional review time when requested by the Permittee. This policy also ensures that updated Permit requirements directed at protecting water quality are implemented as soon as possible.

Compliance Schedules

The Petitioners requested that all permit renewals and modifications which contain more stringent or new effluent limitations be required to include a Compliance Schedule. However, this practice would not comply with EPA requirements and could unnecessarily delay implementation of important water quality protections.

The EPA has issued guidance in the form of a memo titled "*Compliance Schedules for Water Quality-Based Effluent Limitations in NPDES Permits*" (EPA Memo) to provide a framework for States to implement 40 CFR 122.47, the federal regulations associated with compliance schedules in National Pollutant Discharge Elimination System Permits (NPDES).

As indicated in the EPA memo, a compliance schedule is only appropriate in relation to more stringent or new effluent limitations if it can be demonstrated that the Permittee cannot immediately comply with the new effluent limitations on the effective date of the permit. In addition, compliance schedules cannot extend the date for final compliance beyond the statutory deadlines established in the Clean Water Act. *See* 40 CFR 122.47 (a)(1). Consistent with these requirements, Utah Admin. Code R317-8-5.2 authorizes the Division to include a schedule of compliance in UPDES Permits, when appropriate.

Requiring compliance schedules for all permit renewals which contain more stringent or new effluent limitations would not be appropriate based on the EPA Memo. Furthermore, EPA expects compliance schedules to require compliance with effluent limitations as soon as possible. In instances where the Permittee was able to meet the effluent limits on the date of permit issuance, a compliance schedule would be unnecessary and only serve to delay important protections to water quality. In order to ensure that the Division complies with EPA requirements, an evaluation on whether a compliance schedule is appropriate for inclusion in a permit needs to be completed by the Permit writer.

The Division recognizes that changes to permit effluent limitations may require facilities to change the way they operate or complete upgrades in order to meet new requirements. The Division considers all requests for compliance schedules from Permittees and evaluates whether including a compliance schedule is appropriate. Of the 132 Individual Municipal and Industrial UPDES Permits, approximately 25 contain compliance schedules (about 19%).

Final Permit Renewals Effective Dates

The Petitioners request that the Division be required to issue final permit renewals at the end of the calendar year or reporting period in order to simplify the reporting. Unfortunately, while this solution may make reporting simpler for the permittee, it poses significant operational challenges for the Division, including how the Division manages workload. The Division is also concerned that this requirement would not be protective of water quality and would not address the concerns outlined in the Petitioners request.

Current Division staffing is reliant on the current structure of the permitting process. Individual UPDES permits are typically issued on a 5-year basis. A similar number of permits expire each year (approximately 27), at different times throughout the year. Each of the five (5) permit writers are assigned a certain number of permits, with attention to the number of permit renewals they may have assigned to them in a given year. In addition, the Division has two (2) individuals in the Standards and Technical Services (STS) section that develop Wasteload Analyses (WLA). Staggering permit renewal and expiration dates throughout the year ensures that the Division is efficiently staffed to manage the permit workloads and other duties associated with permit writing positions, including education and outreach; providing technical assistance; and conducting compliance inspections.

The process to renew a permit generally starts one year prior to a permit renewal, when permit writers send out a 1-year reminder of permit expiration. Renewal permit applications are then due 180 days prior to expiration. Once a complete application is received, permit writers request a WLA from the Division's STS section and prepare a Draft permit. Permits then go through a rigorous internal review process and a courtesy permittee review process prior to the public comment period.

If all permits were effective on the 1st of January, the Division would be receiving all of the applications for renewal the following year in July. This means all of the reviews for complete applications would occur in July and requests for a WLA would occur soon after. This would continue through the entirety of the permitting process; concentrating all work associated with permit renewals into a small window of the year. With the Division's current staffing levels, it would be impossible to issue all expiring permits prior to January 1st, which means many permits would be delayed a year, causing further operational challenges the next renewal period, as well as significantly delaying important protections to water quality. Late applications would further exacerbate this problem.

The Petitioners expressed concerns with the difficulty to implement and report changes on Discharge Monitoring Reports (DMRs), when changes are made to a Permit in the middle of a reporting period. Generally, the latest a Permittee becomes aware of changes to monitoring and reporting requirements included in their draft permit is during their courtesy pre-pubic notice review. The Division feels the Permittee has ample time to prepare to implement most changes to monitoring and reporting requirements in their permit, since the time to prepare includes a minimum of a 7-day pre-public notice review period; a 30-day public comment period; and time associated with the administrative process to issue a permit prior and after public-notice. The Permitee becomes aware of the changes through the draft permit process, well before the monitoring and reporting requirements become effective. Additionally, if the Division was sufficiently staffed to be able to issue permits 180 days from a complete application (prior to permit expiration) under the request, then all permits would theoretically be signed by the Director in December and effective January 1st. This would result in the same amount of time between when the Director signs the permit and the effective date of the permit, leading to the Permitee having the same amount of time to implement and report changes as they do now. The same would apply to quarterly renewals. Further restricting when the Director could sign permits to avoid this occurrence would pose operational challenges significant enough to make it nearly impossible to issue permits.

Furthermore, while it's true that some permits contain monitoring requirements on a quarterly or annual basis, most pollutants of concern (POCs) are required to be monitored on a minimum of a monthly basis. All UPDES permits include monthly reporting requirements and Discharge Monitoring Reports (DMRs) are due on the 28th day of each month. Reporting associated with the Technology Based Phosphorus Effluent Limits (TBPEL); reporting related to effluent limitations derived from some Total Maximum Daily Loads (TMDLs); and a few others may have alternative reporting requirements, but it is not the norm.
The Petitioners stated concerns with the electronic system used for reporting not being updated in time for new permitting requirements to be reported. The Division recognizes that not having the ability to enter DMR data when reporting is due can be frustrating for Permittees. In the past year, the Division has improved this process by issuing permits where the effective date is the 1st day of the month following the Director's signature, to make monitoring and reporting easier for Permittees; and allow time for the Division to update the electronic reporting system to reflect the changes. The Division has also taken steps to improve the internal process to have reporting limits updated and available for Permittees prior to the due date for the first DMR under their new permit.

Implementing the proposed rule change would ultimately result in no change to the amount of time a Permittee has to adjust to changes in monitoring requirements, while significantly complicating the Division's permitting process and workload.

Summary of Division Concerns

The requests submitted by the petitioner both individually and collectively would require the Division to manage the UPDES permitting program in a way that is not protective of water quality due to the significant delays in permit issuances and effective dates of important water quality protections in permits. Significantly delaying implementation of permitting requirements that protect water quality is a disservice to the Citizens of Utah. In addition to water quality concerns, the Division has concerns with the logistics of implementation of some of the requests and its ability to operate with the current level of staffing.

The Division seeks to protect water quality through balanced regulation and is always open to conversations with permittees to determine the best way to do so. The Division will reach out to the Petitioners to discuss their concerns and potential solutions to address them. The Division strives to continuously improve and is receptive of ideas and feedback to improve the UPDES Permitting Process.

Recommendation

The Division recommends that the Board deny the Petitioner's request for rulemaking, primarily on the basis that the requests would cause significant delays in the permitting process, result in unnecessary and unacceptable delays in implementation of important water quality requirements, and hinder the Division's ability to protect the Waters of the State.

Holland & Hart

Ashley A. Peck
Partner
Phone 801.799.5913
aapeck@hollandhart.com

July 18, 2024

John Mackey
Executive Secretary, Board of Water Quality
Director, Division of Water Quality
195 North 1950 West
Salt Lake City, Ut 84116
jkmackey@utah.gov

VIA E-MAIL

Re: Petition for Rule Change - Proposed Amendments to Utah Administrative Code Rule 317

Dear Mr. Mackey,

We write to you in your capacity as the Executive Secretary of the Utah Water Quality Board (the "Board") on behalf of the Wasatch Front Water Quality Council (the "Council"). The Council is a coalition of wastewater treatment plants located along the Wasatch Front, all of which are subject to Utah Pollutant Discharge Elimination System ("UPDES") permits. Our members have expressed concerns regarding permitting challenges they have faced in recent permit renewal cycles, and we write to propose changes to Utah Administrative Code ("UAC") Rule 317 to address these issues. The objectives of these changes are as follows:

- To require that the Division of Water Quality ("Division") circulate a pre-publication draft 30 days before the permit is released for public comment. While this is often the practice of the Division, it has been inconsistent, and in some cases, members have been given only a very short time for review and comment. Our members have also seen examples where providing a pre-publication draft would have allowed for correction of errors and given them a head's up on changes to effluent limits that were not previously communicated.

- To provide a compliance schedule when the permit imposes more stringent or new effluent limitations. Our members operate complex treatment systems that often require significant upgrades or operational changes to meet lower limits. Where limits are lowered or new limits are imposed, our members should be given a reasonable time to make these changes.

- Require that the Division issue final permit renewals at the end of the calendar year or reporting period (e.g. quarter) rather than falling in the middle of that reporting period. When changes are made to the permit in the middle of the reporting period, it is difficult

to implement and report those changes on discharge monitoring reports, and the electronic system often isn't updated to allow for it.

We have enclosed proposed redline changes to Utah Admin. Code R317-8-6.3, R317-8-6.5, R317-8-5.2 and R317-8-5. The Board has authority to make these revisions under the Utah Water Quality Act (Title 19, Chapter 5 of the Utah Code). We request that you review these proposed amendments and include them on the Water Quality Board agenda for August. Please contact me or Council Executive Director Leland Myers if you would like to discuss the Council's concerns.

Sincerely,



Ashley A. Peck
Partner
of Holland & Hart LLP

cc: Jim Webb, Board Chair (via e-mail)
Mayor Michelle Kaufusi, Board Vice Chair (via e-mail)
Robert Fehr, Board Member (via e-mail)
Jill Jones, Board Member (via e-mail)
Joe Havasi, Board Member (via e-mail)
Michela Harris, Board Member (via e-mail)
Trevor Heaton, Board Member (via e-mail)
Carly Castle, Board Member (via e-mail)
Kim Shelly, Board Member (via e-mail)

Utah Administrative Code – Rule 317

1. **For the Amendment to Require a Pre-Publication Draft:**

Amend Utah Admin. Code § 317-8-6.3

6.3 DRAFT PERMITS

(1) Once an application is complete, the Director shall tentatively decide whether to prepare a draft permit or to deny the application.

(2) If the Director tentatively decides to deny the permit application, then he or she shall issue a notice of intent to deny. A notice of intent to deny the permit application is a type of draft permit which follows the same procedure as any draft permit prepared under this section. If the Director's final decision (under R317-8-6.11) is that the tentative decision to deny the permit application was incorrect, he or she shall withdraw the notice of intent to deny and proceed to prepare a draft permit under R317-8-6.3(4).

(3) If the Director tentatively decides to issue a UPDES general permit, he or she shall prepare a draft general permit in accordance with R317-8-6.3(4).

(4) If the Director decides to prepare a draft permit he or she shall prepare a draft permit that contains the following information:

(a) All conditions under R317-8-4.1;

(b) All compliance schedules under R317-8-5.2;

(c) All monitoring requirements under R317-8-5.3;

(d) Effluent limitations, standards, prohibitions, standards for sewage sludge use or disposal, and conditions under R317-8-3, 8-4, 8-5, 8-6, and 8-7 and all variances that are to be included.

(5) All draft permits prepared under this section shall be accompanied by a statement of basis or fact sheet and shall be based on the administrative record, publicly noticed, and made available for public comment. The Director will give notice of opportunity for a public hearing, issue a final decision and respond to comments. At least 30 days before providing public notice of the draft permit, the Director shall circulate the draft permit to the permittee.

(6) Statement of Basis. A statement of basis shall be prepared for every draft permit for which a fact sheet is not prepared. The statement of basis shall briefly describe the derivation of the conditions of the draft permit and the reasons for them or, in the case of notices of intent to deny or terminate, reasons supporting the tentative decision. The statement of basis shall be sent to the applicant and, on request, to any other person.

Amend Utah Admin. Code § 317-8-6.5

317-8-6.5 PUBLIC NOTICE OF PERMIT ACTIONS AND PUBLIC COMMENT PERIOD

(1) Scope.

(a) The Director will give public notice that the following actions have occurred:

1. A permit application has been tentatively denied under R317-8-6.3(2); or
2. A draft permit has been prepared under R317-8-6.3(4);
3. A public hearing has been scheduled under R317-8-6.7; and
4. A UPDES new source determination has been made in accordance with the definition in R317-8-1.

(b) No public notice is required when a request for permit modification, revocation and reissuance, or termination is denied under .2. Written notice of the denial will be given to the requester and to the permittee.
(c) Public notices may describe more than one permit or permit action.

(2) Timing.
(a) At least 30 days before providing public notice of the draft permit, the Director shall circulate the draft permit to the permittee.
(b) Public notice of the preparation of a draft permit, including a notice of intent to deny a permit application, required under R317-8-6.5(1) will allow at least thirty (30) days for public comment.
(c) Public notice of a public hearing shall be given at least thirty (30) days before the hearing. (Public notice of the hearing may be given at the same time as public notice of the draft permit and the two notices may be combined.)

….

2. For the Amendment to Require a Schedule of Compliance for Effluent Limitation Changes:

Amend Utah Admin. Code § 317-8-5.2

317-8-5.2 SCHEDULES OF COMPLIANCE
(1) The permit may, when appropriate, specify a schedule of compliance leading to compliance with the Utah Water Quality Act, as amended, and rules promulgated pursuant thereto.

(a) Time for compliance. Any schedules of compliance under this section will require compliance as soon as possible, but not later than the applicable statutory deadline under the CWA, except:

(b) The first UPDES permit issued to a new source or a new discharger shall contain a schedule of compliance only when necessary to allow a reasonable opportunity to attain compliance with requirements issued or revised after commencement of construction but less than three years before commencement of the relevant discharge. For recommencing discharges, a schedule of compliance shall be available only when necessary to allow a reasonable opportunity to attain compliance with requirements issued or revised less than three years before recommencement of discharge.

(c) Where a renewal or modified permit for a publicly-owned treatment works will make effluent limitations more stringent or impose new effluent limitations, the director shall

provide the permittee with a schedule of compliance. The schedule shall be based on discussions with the permittee on anticipated design and engineering efforts that will be required to meet the effluent limitations.

(d) Interim dates. Except as provided in R317-8-5.2(2)(a)2 if a permit establishes a schedule of compliance which exceeds one (1) year from the date of permit issuance, the schedule will set forth interim requirements and the dates for their achievement.

1. The time between interim dates will not exceed one (1) year, except that in the case of a schedule for compliance with standards for sewage sludge use and disposal, the time between interim dates will not exceed six months.

2. If the time necessary for completion of any interim requirement, such as the construction of a control facility, is more than one (1) year and is not readily divisible into stages for completion, the permit will specify interim dates, (but not more than one interim date per calendar year per project phase or segment), for the submission of reports of progress toward completion of the interim requirements and indicate a projected completion date.

(e) Reporting. The permit shall be written to require that no later than fourteen (14) days following each interim date and the final date of compliance, the permittee shall notify the Director in writing of its compliance or noncompliance with the interim or final requirements, or submit progress reports.

(2) Alternative Schedules of Compliance. A UPDES permit applicant or permittee may cease conducting regulated activities (by termination of direct discharge for UPDES sources), rather than continue to operate and meet permit requirements as follows:

(a) If the permittee decides to cease conducting regulated activities at a given time within the term of a permit which has already been issued:

1. The permit may be modified to contain a new or additional schedule leading to timely cessation of activities; or

2. The permittee shall cease conducting permitted activities before noncompliance with any interim or final compliance schedule requirement already specified in the permit.

(b) If the decision to cease conducting regulated activities is made before issuance of a permit whose term will include the termination date, the permit will contain a schedule leading to termination which will ensure timely compliance with applicable requirements no later than the statutory deadline.

(c) If the permittee is undecided whether to cease conducting regulated activities, the Director may issue or modify a permit to contain two schedules as follows:

1. Both schedules will contain an identical interim deadline requiring a final decision on whether to cease conducting regulated activities no later than a date which ensures sufficient time to comply with applicable requirements in a timely manner if the

decision is to continue conducting regulated activities;

2. One schedule shall lead to timely compliance no later than the statutory deadline in the CWA;

3. The second schedule will lead to cessation of regulated activities by a date which will ensure timely compliance with the applicable requirements no later than the deadline specified in R317-8-7;

4. Each permit containing two schedules will include a requirement that after the permittee has made a final decision under R317-8-5.2(2)(c), it shall follow the schedule leading to compliance if the decision is to continue conducting regulated activities, and follow the schedule leading to termination if the decision is to cease conducting regulated activities.

(d) The applicant's or permittee's decision to cease conducting regulated activities shall be evidenced by a firm public commitment satisfactory to the Director, such as a resolution of the Board of Directors of a corporation.

3. <u>For the Amendment to Require Permits to Start at Beginning of Year/DMR Month</u>

Amend Utah Admin. Code § U.A.C. R317-8-5: Permit Provisions

5.1 DURATION OF PERMITS

(1) UPDES permits shall be effective for a fixed term not to exceed 5 years.

(2) Except as provided in R317-8-3.1(4) (d), the term of a permit shall not be extended by modification beyond the maximum duration specified in this section.

(3) The Director may issue any permit for a duration that is less than the full allowable term under this section.

(4) A permit that would expire on or after the Federal statutory deadline set forth in section 301(b)(2) (A), (C), and (E) of the CWA, may be issued to expire after the deadline if the permit includes effluent limitations to meet the requirements of section 301(b)(2) (A), (C), (D), (E) and (F), whether or not applicable effluent limitations guidelines have been promulgated or approved.

(5) A determination that a particular discharger falls within a given industrial category for purposes of setting a permit expiration date under paragraph (d) of this section is not conclusive as to the discharger’s inclusion in that industrial category for any other purposes, and does not prejudice any rights to challenge or change that inclusion at the time that a permit based on that determination is formulated.

(6) When a permit is renewed or reissued, the effective date of the renewed or reissued permit must be the beginning of the reporting interval specified in the permit (*e.g.*, monthly or quarterly) or the beginning of a calendar year.

Amend U.A.C. R317-8-4: Permit Conditions

4.2 ESTABLISHING PERMIT CONDITIONS

…

(11) Reissued Permits.

(a) Except as provided in Subsection R317-8-4.2(11)(b), when a permit is renewed or reissued, interim limitations, standards or conditions must be at least as stringent as the final limitations, standards, or conditions in the previous permit unless the circumstances on which the previous permit was based have materially and substantially changed since the time the permit was issued and would constitute cause for permit modification or revocation and reissuance under Subsection R317-8-5.6.

(b) In the case of effluent limitations established on the basis of Section 19-5-104 of the Utah Water Quality Act, a permit may not be renewed, reissued, or modified on the basis of effluent guidelines promulgated by EPA under section 304(b) of the CWA subsequent to the original issuance of such permit, to contain effluent limitations which are less stringent than the comparable effluent limitations in the previous permit.

(c) When a permit is renewed or reissued, the effective date of the renewed or reissued permit must be the beginning of the reporting interval specified in the permit (*e.g.*, monthly or quarterly) or the beginning of a calendar year.

(d) Exceptions — A permit with respect to which Subsection R317-8-4.2(11)(b) applies may be renewed, reissued or modified to contain a less stringent effluent limitation applicable to a pollutant, if —

1. Material and substantial alterations or additions to the permitted facility occurred after permit issuance which justify the application of a less stringent effluent limitation; and

2. either

a. information is available which was not available at the time of permit issuance [other than revised regulations, guidance, or test methods] which would have justified the application of a less stringent effluent limitation at the time of permit issuance; or

b. the Director determines that technical mistakes or mistaken interpretations of law were made in issuing the permit;

3. A less stringent effluent limitation is necessary because of events over which the permittee has no control and for which there is no reasonably available remedy;

4. The permittee has received a permit modification under Subsection R317-8-5.6; or

5. The permittee has installed the treatment facilities required to meet the effluent limitations in the previous permit and has properly operated and maintained the facilities but has nevertheless been unable to achieve the previous effluent limitations, in which case the limitations in the reviewed, reissued, or modified permit may reflect the level of pollutant control actually achieved but shall not be less stringent than required by effluent guidelines in effect at the time of permit renewal, reissuance, or modification.

(e) Limitations. In no event may a permit with respect to which Subsection R317-8-4.2(11)(b) applies be renewed, reissued or modified to contain an effluent limitation which is less stringent than required by effluent guidelines in effect at the time the permit is renewed, reissued, or modified. In no event may such a permit to discharge into waters be renewed, issued, or modified to contain a less stringent effluent limitation if the implementation of such limitation would result in a violation of the water quality standard applicable to such waters. U.A.C. R317-8-4.

Effective 5/12/2020
63G-3-601. Interested parties -- Petition for agency action.

(1) As used in this section, "initiate rulemaking proceedings" means the filing, for the purposes of publication in accordance with Subsection 63G-3-301(4), of an agency's proposed rule to implement a petition for the making, amendment, or repeal of a rule as provided in this section.

(2) An interested person may petition an agency to request the making, amendment, or repeal of a rule.

(3) The office shall prescribe by rule the form for petitions and the procedure for their submission, consideration, and disposition.

(4) A statement shall accompany the proposed rule, or proposed amendment or repeal of a rule, demonstrating that the proposed action is within the jurisdiction of the agency and appropriate to the powers of the agency.

(5) Within 60 days after submission of a petition, the agency shall either deny the petition in writing, stating its reasons for the denial, or initiate rulemaking proceedings.

(6)(a) If the petition is submitted to a board that has been granted rulemaking authority by the Legislature, the board shall, within 45 days of the submission of the petition, place the petition on its agenda for review.

(b)Within 80 days of the submission of the petition, the board shall either:

(i) deny the petition in writing stating its reasons for denial; or

(ii) initiate rulemaking proceedings.

(7) If the agency or board has not provided the petitioner written notice that the agency has denied the petition or initiated rulemaking proceedings within the time limitations specified in Subsection (5) or (6) respectively, the petitioner may seek a writ of mandamus in state district court.

Amended by Chapter 408, 2020 General Session

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

M E M O R A N D U M

TO: Utah Water Quality Board

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

FROM: Ben Holcomb, Standards & Tech Services Section Manager

DATE: August 28, 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. No additional public comments were received during this period. Staff recommends that the Water Quality Board adopt R317-16 as proposed in the May 15, 2024 Bulletin as a Board Order effective immediately.

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	Do your rules specifically address the requirements of 73-33-203 Measuring volume and quality of water? (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. (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. (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. I see the permit application and monitoring requirements, but not a specific reference to setting individual discharge salinity limits.	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. No changes to the rule were made as a result of this comment.

League of Women Voters	General	R317-16	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?	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. 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. No changes to the rule were made as a result of this comment.

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 *Utah State Bulletin* 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[~~1~~]) "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 R317-8-5[~~.6~~](6);
(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

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UTAH DEPARTMENT OF ENVIRONMENTAL QUALITY

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://lf.deq.utah.gov/laserfiche/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 Benjamin Holcomb (Apr 30, 2024 10:14 MDT)
Attorney General's Office 04/29/2024	Coments	Signature Haley Sousa Haley Sousa (Apr 29, 2024 11:49 MDT)
Assistant Director 04/29/2024	Comments	Signature Leanna Littler (Apr 29, 2024 14:48 MDT)
Director 04/29/2024	Comments	Signature John K. Mackay
Rule Coordinator 04/30/2024	Comments This was submitted to OAR today	Signature

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

M E M O R A N D U M

TO: Utah Water Quality Board

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

FROM: Ben Holcomb, Standards & Tech Services Section Manager

DATE: August 28, 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

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
Michela Harris
Joseph Havasi
Trevor Heaton
Robert Fehr
Jill Jones
Kimberly D. Shelley
John K. Mackey
Executive Secretary

MEMORANDUM

DATE: August 28, 2024

TO: Utah Water Quality Board

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

FROM: Danielle Lenz, Individual UPDES Permit Section Manager

SUBJECT: Request to initiate rulemaking to revise and amend Utah Administrative Code, Rule 317-8-1. General Provisions and Definitions.

The purpose of this memorandum is to request authorization from the Utah Water Quality Board (Board) to initiate rulemaking to revise and amend Utah Administrative Code (UAC) Rule 317-8-1 to incorporate federal regulations by reference for Title 40, Code of Federal Regulations (40 CFR) 125.80-99, as UAC Rule 317-8-1.10.19 (Proposed Rule) (Attachment 1). The Proposed Rule is associated with requirements for facilities that need coverage under a Utah Pollutant Discharge Elimination System (UPDES) permit that also have cooling water intake structures that are designed to withdraw at least 2 million gallons per day from Waters of the State.

The Environmental Protection Agency's (EPA) webpage provides additional details on cooling water intake structures, but generally the concern is associated with the potential adverse impact on fish and shellfish (and their eggs) through heat; physical stress; or chemicals used to clean the system. Section 316 (b) of the Clean Water Act (CWA) requires the EPA to issue regulations to minimize adverse impacts through on the design an operation of cooling water intake structures. The federal regulations establish requirements that apply to the location; design; construction; capacity; and operation of cooling water intake structures at new and existing facilities. These requirements aim to establish the best available technology for minimizing adverse environmental impact associated with the use of cooling water intake structures.

The incorporation of the federal regulations by references would only impact Permittee's that require coverage under a UPDES permit that also have cooling water intake structures that are designed to withdraw at least 2 million gallons a day from Waters of the State. Based on EPA guidance this primarily affects industrial sectors related to electric generating plants; pulp and paper mills; chemical manufacturing plants; iron and steel manufacturing; petroleum refineries; food processing; and aluminum manufacturing. At this time the Division of Water Quality (Division) is only aware of three (3) Permittee's that would be affected by this Proposed Rule.

The Proposed Rule would be implemented through the UPDES program. The Division have not previously incorporated the Federal Regulations into State Administrative Code. Without the Proposed Rule, the Division would not have the legal authority to enforce these federal requirements and incorporate them into permits, when applicable.

Division staff recommends the Board authorize initiation of rulemaking to revise and amend UAC R317-8-1. As drafted in Attachment 1. Upon Board approval, staff will file the proposed rule with the Office of Administrative Rules (OAR) prior to their September 1, 2024 filing deadline for publication on September 15, 2024. Once published by OAR, there will be a 30-day public comment period. Dependent upon whether comments are received, the Division plans to return to the Board with recommendations for adoption at the October 2024 Board meeting.

DWQ-2024-005916

R317. Environmental Quality, Water Quality.
R317-8. Utah Pollutant Discharge Elimination System (UPDES).
R317-8-1. General Provisions and Definitions.

1.1 COMPARABILITY WITH THE CWA. The UPDES rules promulgated pursuant to the Utah Water Quality Act are intended to be compatible with the Federal regulations adopted pursuant to CWA.

1.2 CONFLICTING PROVISIONS. The provisions of the UPDES rules are to be construed as being compatible with and complementary to each other. In the event that any of these rules are found by a court of competent jurisdiction to be contradictory, the more stringent provisions shall apply.

1.3 SEVERABILITY. In the event that any provision of these rules is found to be invalid by a court of competent jurisdiction, the remaining UPDES rules shall not be affected or diminished thereby.

1.4 ADMINISTRATION OF THE UPDES PROGRAM. The Director has responsibility for the administration of the UPDES program, including pretreatment. The responsibility for the program is delegated to the Director in accordance with UCA Subsection 19-5-104(11) and UCA Subsection 19-5-107(2)(a). The Director has the responsibility for issuance, denial, modification, revocation and enforcement of UPDES permits, including general permits, Federal facilities permits, and sludge permits; and approval and enforcement authority for the pretreatment program.

1.5 DEFINITIONS. The following terms have the meaning as set forth unless a different meaning clearly appears from the context or unless a different meaning is stated in a definition applicable to only a portion of these rules:

(1) "Administrator" means the Administrator of the United States Environmental Protection Agency, or an authorized representative.

(2) "Applicable standards and limitations" means all standards and limitations to which a discharge, a sewage sludge use or disposal practice, or a related activity is subject under Subsection 19-5-104(6) of the Utah Water Quality Act and rules promulgated pursuant thereto, including but not limited to effluent limitations, water quality standards, standards of performance, toxic effluent standards or prohibitions, best management practices, pretreatment standards, and standards for sewage sludge use or disposal.

(3) "Application" means the forms available from the Division, which are the same as the EPA standard NPDES forms, for applying for a UPDES permit, including any additions, revisions or modifications.

(4) "Average monthly discharge limit" means the highest allowable average of daily discharges over a calendar month, calculated as the sum of all daily discharge measured during a calendar month divided by the number of daily discharges measured during the month.

(5) "Average weekly discharge limit" means the highest allowable average of daily discharges over a calendar week, calculated as the sum of all daily discharges measured during a calendar week divided by the number of daily discharges measured during that week.

(6) "Best management practices (BMPs)" means schedules of activities, prohibitions of practices, maintenance procedures, and other management practices to prevent or reduce the pollution of waters of the state. BMPs also include treatment requirements, operating procedures, practices to control plant site runoff, spillage or leaks, sludge or waste disposal or drainage from raw material storage.

(7) "Class I sludge management facility" means any POTW required to have an approved pretreatment program under R317-8-8 and any other treatment works treating domestic sewage classified as a Class I sludge management facility by the Director, because of the potential for its sludge use or disposal practices to adversely affect public health and the environment.

(8) "Continuous discharge" means a discharge which occurs without interruption throughout the operating hours of the facility, except for infrequent shutdowns for maintenance, process changes, or other similar activities.
(9) "CWA" means the Clean Water Act as subsequently amended (33 U.S.C. 1251 et seq.).
(10) "Daily discharge" means the discharge of a pollutant measured during a calendar day or any 24-hour period that reasonably represents the calendar day for purposes of sampling. For pollutants with limitations expressed in units of mass, the daily discharge is calculated as the total mass of the pollutant discharged over the day. For pollutants with limitations expressed in other units of measurement, the daily discharge is calculated as the average measurement of the pollutant over the day.
(11) "Direct discharge" means the discharge of a pollutant.
(12) "Discharge of a pollutant" means any addition of any pollutants to "waters of the State" from any "point source." This definition includes additions of pollutants into waters of the State from: surface runoff which is collected or channeled by man; discharges through pipes, sewers, or other conveyances owned by the State, a municipality, or other person which do not lead to a treatment works; and discharges through pipes, sewers, or other conveyances, leading into privately owned treatment works. This term does not include an addition of pollutants by any "indirect discharger."
(13) "Economic impact consideration" means the reasonable consideration given by the Director to the economic impact of water pollution control on industry and agriculture; provided, however, that such consideration shall be consistent and in compliance with the CWA and EPA promulgated regulations.
(14) "Discharge Monitoring Report (DMR)" means EPA uniform national form or equivalent State form, including any subsequent additions, revisions or modifications, for the reporting of self-monitoring results by permittees.
(15) "Draft permit" means a document prepared under R317-8-6.3 indicating the Director's preliminary decision to issue or deny, modify, revoke and reissue, terminate, or reissue a permit. A notice of intent to terminate a permit, and a notice of intent to deny a permit are types of draft permits. A denial of a request for modification, revocation and reissuance, or termination as provided in R317-8-5.6 is not a draft permit. A proposed permit prepared after the close of the public comment period is not a draft permit.
(16) "Effluent limitation" means any restriction imposed by the Director on quantities, discharge rates, and concentrations of pollutants which are discharged from point sources into waters of the State.

(17) "Effluent limitations guidelines" means a regulation published by the Administrator under section 304(b) of CWA to adopt or revise effluent limitations.
(18) "Environmental Protection Agency (EPA)" means the United States Environmental Protection Agency.
(19) "Facility or activity" means any UPDES point source, or any other facility or activity, including land or appurtenances thereto, that is subject to regulation under the UPDES program.
(20) "General permit" means any UPDES permit authorizing a category of discharges within a geographical area, and issued under R317-8-2.5.
(21) "Hazardous substance" means any substance designated under 40 CFR Part 116.
(22) "Indirect discharge" means a nondomestic discharger introducing pollutants to a publicly owned treatment works.

(23) "Interstate agency" means an agency of which Utah and one or more states is a member, established by or under an agreement or compact, or any other agency, of which Utah and one or more other states are members, having substantial powers or duties pertaining to the control of pollutants.
(24) "Major facility" means any UPDES facility or activity classified as such by the Director in conjunction with the Regional Administrator.
(25) "Maximum daily discharge limitation" means the highest allowable daily discharge.
(26) "Municipality" means a city, town, district, county, or other public body created by or under the State law and having jurisdiction over disposal of sewage, industrial wastes, or other wastes. For purposes of these rules, an agency designated by the Governor under Section 208 of the CWA is also considered to be a municipality.
(27) "National Pollutant Discharge Elimination System (NPDES)" means the national program for issuing, modifying, revoking and reissuing, terminating, monitoring and enforcing permits, and imposing and enforcing pretreatment requirements under Sections 307, 402, 318 and 405 of the CWA.
(28) "New discharger" means any building, structure, facility, or installation:
(a) From which there is or may be a "discharge of pollutants;"
(b) That did not commence the "discharge of pollutants" at a particular "site" prior to August 13, 1979;
(c) Which is not a "new source;" and
(d) Which has never received a finally effective UPDES permit for discharges at that "site."
This definition includes an "indirect discharger" which commenced discharging into waters of the state after August 13, 1979.
(29) "New source" means any building, structure, facility, or installation from which there is or may be a direct or indirect discharge of pollutants, the construction of which commenced;
(a) After promulgation of EPA's standards of performance under Section 306 of CWA which are applicable to such source, or
(b) After proposal of Federal standards of performance in accordance with Section 306 of CWA which are applicable to such source, but only if the Federal standards are promulgated in accordance with Section 306 within 120 days of their proposal.
(30) "Non-continuous or batch discharge" for a discharge to be considered a non-continuous or batch discharge the following must apply:
(a) Frequency of a non-continuous or batch discharge:
i. shall not occur more than once every three (3) weeks,
ii. shall not be more than once during the three (3) weeks and
iii. shall not exceed 24 hours;
(b) Shall not cause a slug load at the POTW.
(31) "Owner or operator" means the owner or operator of any facility or activity subject to regulation under the UPDES program.
(32) "Permit" means an authorization, license, or equivalent control document issued by the Director to implement the requirements of the UPDES rules. "Permit" includes a UPDES "general permit." The term does not include any document which has not yet been the subject of final agency action, such as a draft permit or a proposed permit.
(33) "Person" means any individual, corporation, partnership, association, company or body politic, including any agency or instrumentality of the United States government.
(34) "Point source" means any discernible, confined, and discrete conveyance, including but not limited to any pipe, ditch, channel, tunnel, conduit, well, discrete fissure, container, rolling stock,

concentrated animal feeding operation, landfill leachate collection system, vessel or other floating craft, from which pollutants are or may be discharged. This term does not include agricultural storm-water runoff or return flows from irrigated agriculture.

(35) "Pollutant" means, for the purpose of these rules, dredged spoil, solid waste, incinerator residue, filter backwash, sewage, garbage, sewage sludge, munitions, chemical wastes, biological materials, radioactive materials (except those regulated under the Atomic Energy Act of 1954, as amended (42 U.S.C. 2011 et seq.)), heat, wrecked or discarded equipment, rock, sand, cellar dirt and industrial, municipal, and agricultural waste discharged into water. It does not mean:

(a) Sewage from vessels; or

(b) Water, gas, or other material which is injected into a well to facilitate production of oil or gas, or water derived in association with oil and gas production and disposed of in a well, if the well used either to facilitate production or for disposal purposes is approved by authority of the State in which the well is located, and if the State determines that the injection or disposal will not result in the degradation of ground or surface water resources.

(36) "Pollution" means any man-made or man-induced alteration of the chemical, physical, biological, or radiological integrity of any waters of the State, unless such alteration is necessary for the public health and safety. Alterations which are not consistent with

the requirements of the CWA and implementing regulations shall not be deemed to be alterations necessary for the public health and safety. A discharge not in accordance with Utah Water Quality Standards, stream classification, and UPDES permit requirements, including technology-based standards shall be deemed to be pollution.

(37) "Primary industry category" means any industry category listed in R317-8-3.11.

(38) "Privately owned treatment works" means any device or system which is used to treat wastes from any facility whose operator is not the operator of the treatment works and which is not a POTW.

(39) "Process wastewater" means any water which, during manufacturing or processing, comes into direct contact with or results from the production or use of any raw material, intermediate product, finished product, byproduct, or waste product.

(40) "Proposed permit" means a UPDES permit prepared after the close of the public comment period and, when applicable, any public hearing and adjudicative proceedings, which is sent to EPA for review before final issuance by the Director. A proposed permit is not a draft permit.

(41) "Publicly-owned treatment works" (POTW) means any facility for the treatment of pollutants owned by the State, its political subdivisions, or other public entity. For the purposes of these rules, POTW includes sewers, pipes or other conveyances conveying wastewater to a POTW providing treatment, treatment of pollutants includes recycling and reclamation, and pollutants refers to municipal sewage or industrial wastes of a liquid nature.

(42) "Recommencing discharger" means a source which resumes discharge after terminating operation.

(43) "Regional Administrator" means the Regional Administrator of the Region VIII office of the EPA or the authorized representative of the Regional Administrator.

(44) "Schedule of compliance" means a schedule of remedial measures included in a permit, including an enforceable sequence of interim requirements leading to compliance with the Utah Water Quality Act and rules promulgated pursuant thereto.

(45) "Secondary industry category" means any industry category which is not a primary industry category.

(46) "Septage" means the liquid and solid material pumped from a septic tank, cesspool, or similar domestic sewage treatment system, or a holding tank when the system is cleaned or maintained.

(47) "Seven (7) consecutive day discharge limit" means the highest allowable average of daily discharges over a seven (7) consecutive day period.
(48) "Sewage from vessels" means human body wastes and the wastes from toilets and other receptacles intended to receive or retain body wastes that are discharged from vessels and regulated under Section 312 of CWA.
(49) "Sewage sludge" means any solid, semi-solid, or liquid residue removed during the treatment of municipal wastewater or domestic sewage. Sewage sludge includes, but is not limited to, solids removed during primary, secondary or advanced wastewater treatment, scum, septage, portable toilet dumpings, type III marine sanitation device pumpings, and sewage sludge products. Sewage sludge does not include grit or screenings, or ash generated during the incineration of sewage sludge.
(50) "Sewage sludge use or disposal practice" means the collection, storage, treatment, transportation, processing, monitoring, use, or disposal of sewage sludge.
(51) "Site" means the land or water area where any "facility or activity" is physically located or conducted, including adjacent land used in connection with the facility or activity.
(52) "Sludge-only facility" means any treatment works treating domestic sewage whose methods of sewage sludge use or disposal are subject to rules promulgated pursuant to Section 19-5-104 of the Utah Water Quality Act and which is required to obtain a permit under R317-8-2.1.
(53) "Standards for sewage sludge use or disposal" means the rules promulgated pursuant to Section 19-5-104 of the Utah Water Quality Act which govern minimum requirements for sludge quality, management practices, and monitoring and reporting applicable to sewage sludge or the use or disposal of sewage sludge by any person.
(54) "State/EPA Agreement" means an agreement between the State and the Regional Administrator which coordinates State and EPA activities, responsibilities and programs, including those under the CWA programs.
(55) "Thirty (30) consecutive day discharge limit" means the highest allowable average of daily discharges over a thirty (30) consecutive day period.
(56) "Toxic pollutant" means any pollutant listed as toxic in R317-8-7.6 or, in the case of sludge use or disposal practices, any pollutant identified as toxic in State adopted rules for the disposal of sewage sludge.
(57) "Treatment works treating domestic sewage" means a POTW or any other sewage sludge or waste water treatment devices or systems, regardless of ownership (including federal facilities), used in the storage, treatment, recycling, and reclamation of municipal or domestic sewage, including land dedicated for the disposal of sewage sludge. This definition does not include septic tanks or similar devices. For purposes of this definition, "domestic sewage" includes waste and waste water from humans or household operations that are discharged to or otherwise enter a treatment works.
(58) "Variance" means any mechanism or provision under the UPDES rules which allows modification to or waiver of the generally applicable effluent limitation requirements or time deadlines.
(59) "Waters of the State" means all streams, lakes, ponds, marshes, watercourses, waterways, wells, springs, irrigation systems, drainage systems, and all other bodies or accumulations of water, surface and underground, natural or artificial, public or private, which are contained within, flow through, or border upon this State or any portion thereof, except that bodies of water confined to and retained within the limits of private property, and which do not develop into or constitute a nuisance, or a public health hazard, or a menace to fish or wildlife, shall not be considered to be "waters of the State." The exception for confined bodies of water does not apply to any waters which meet the definition of "waters of the United States" under 40 CFR 122.2. Waters are considered to be confined

to and retained within the limits of private property only if there is no discharge or seepage to either surface water or groundwater. Waters of the State includes "wetlands" as defined in the Federal Clean Water Act.

(60) "Wetlands" means those areas that are inundated or saturated by surface or groundwater at a frequency and duration sufficient to support, and that under normal circumstance do support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands generally include swamps, marshes, bogs, and similar areas.

(61) "Whole effluent toxicity" means the aggregate toxic effect of an effluent as measured directly by a toxicity test.

(62) "Utah Pollutant Discharge Elimination System (UPDES)" means the State-wide program for issuing, modifying, revoking and reissuing, terminating, monitoring and enforcing permits, and imposing and enforcing pretreatment requirements under the Utah Water Quality Act.

1.6 DEFINITIONS APPLICABLE TO STORM-WATER DISCHARGES.

(1) "Co-Permittee" means a permittee to a UPDES permit that is only responsible for permit conditions relating to the discharge for which it is operator.

(2) "Illicit discharge" means any discharge to a municipal separate storm sewer that is not composed entirely of storm water except discharges pursuant to a UPDES permit (other than the UPDES permit for discharges from the municipal separate storm sewer) and discharges resulting from fire fighting activities.

(3) "Incorporated place" means a city or town that is incorporated under the laws of Utah.

(4) "Large municipal separate storm sewer system" means all municipal separate storm sewers that are:

(a) Located in an incorporated place with a population of 250,000 or more as determined by the 1990 Decennial Census by the Bureau of Census; or

(b) Located in counties with unincorporated urbanized areas with a population of 250,000 or more according to the 1990 Decennial Census by the Bureau of Census, except municipal separate storm sewers that are located in the incorporated places, townships or towns within the County; or

(c) Owned or operated by a municipality other than those described in R317-8-1.6(4)(a) or (b) and that are designated by the Director as part of a large or medium municipal separate storm sewer system. See R317-8-11.3(6)(a) for provisions regarding this definition.

(5) "Major municipal separate storm sewer outfall" (or "major outfall") means a municipal separate storm sewer outfall that discharges from a single pipe with an inside diameter of 36 inches or more or its equivalent (discharge from a single conveyance other than circular pipe which is associated with a drainage area of more than 50 acres); or for municipal separate storm sewers that receive storm water from lands zoned for industrial activity (based on comprehensive zoning plans or the equivalent), an outfall that discharges from a single pipe with an inside diameter of 12 inches or more or from its equivalent (discharge from other than a circular pipe associated with a drainage area of 2 acres or more).

(6) "Major outfall" means a major municipal separate storm sewer outfall.

(7) "Maximum Extent Practicable" (MEP) means the technology-based discharge standard for Municipal Separate Storm Sewer Systems established by paragraph 402(p)(3)(B)(iii) of the Federal Clean Water Act (CWA), which states that permits for discharges from municipal storm sewers shall require controls to reduce the discharge of pollutants to the maximum extent practicable, including management practices, control techniques, and system, design, and engineering methods, and other such provisions as the Administrator or the State determines appropriate for the control of such pollutants.

(8) "Medium municipal separate storm sewer system" means all municipal separate storm sewers that are:
(a) Located in an incorporated place with a population of 100,000 or more but less than 250,000, as determined by the 1990 Decennial Census by the Bureau of Census;
(b) Located in counties with unincorporated urbanized areas with a population greater than 100,000 but less than 250,000 as determined by the 1990 Decennial Census by the Bureau of the Census; or
(c) Owned or operated by a municipality other than those described in R317-8-1.6(4)(a) and (b) and that are designated by the Director as part of the large or medium municipal separate storm sewer system. See R317-8-11.3(6)(b) for provisions regarding this definition.
(9) "MS4" means a municipal separate storm sewer system.
(10) "Municipal separate storm sewer system" means all separate storm sewers that are defined as "large" or "medium" or "small" municipal separate storm sewer systems pursuant to paragraphs R317-8-1.6(4), (8), and (15) of this section, or designated under paragraph R317-8-11.3(1)(a)6 of this section.
(11) "Outfall" means a point source at the point where a municipal separate storm sewer discharges to waters of the State and does not include open conveyances connecting two municipal separate storm sewers, or pipes, tunnels or other conveyances which connect segments of the same stream or other waters of the State and are used to convey waters of the State.
(12) "Overburden" means any material of any nature, consolidated or unconsolidated, that overlies a mineral deposit, excluding topsoil or similar naturally occurring surface materials that are not disturbed by mining operations.
(13) "Runoff coefficient" means the fraction of total rainfall that will appear at a conveyance as runoff.
(14) "Significant materials" means, but is not limited to: raw materials; fuels; materials such as solvents, detergents, and plastic pellets; finished materials such as metallic products; raw materials used in food processing or production; hazardous substances designated under section 101(14) of CERCLA: any chemical the facility is required to report pursuant to section 313 of Title III of SARA: fertilizers; pesticides; and waste products such as ashes, slag and sludge that have the potential to be released with storm water discharges.
(15) "Small municipal separate storm sewer system" means all separate storm sewers that are:
(a) Owned or operated by the United States, State of Utah, city, town, county, district, association, or other public body (created by or pursuant to State law) having jurisdiction over disposal of sewage, industrial waste, storm water, or other wastes, including

special districts under State law such as a sewer district, flood control district or drainage district, or similar entity, or a designated and approved management agency under section 208 of the CWA that discharges to waters of the State.
(b) Not defined as "large" or "medium" municipal separate storm sewer system pursuant to paragraphs R317-8-1.6(4) and (8) of this section, or designated under paragraph R317-8-11.3(1)(a)6 of this section.
(c) This term includes systems similar to separate storm sewer systems in municipalities, such as systems at military bases, large hospital or prison complexes, and highways and other thoroughfares. The term does not include separate storm sewers in very discrete areas, such as individual buildings.
(16) "Small MS4" means a small municipal separate storm sewer system.
(17) "Storm water" means storm water runoff, snow melt runoff, and surface runoff and drainage.
(18) "Storm water discharge associated with industrial activity" means the discharge from any conveyance which is directly related to manufacturing, processing or raw materials storage areas at

an industrial plant. The term does not include discharges from facilities or activities excluded from the UPDES program. See R317-8-11.3(6)(c) and (d) for provisions applicable to this definition.
(19) "Uncontrolled sanitary landfill means a landfill or open dump, whether in operation or closed, that does not meet the requirements for runon or runoff controls established pursuant to subtitle D of the Solid Waste Disposal Act.
1.7 ABBREVIATIONS AND ACRONYMS. The following abbreviations and acronyms, as used throughout the UPDES rules, shall have the meaning given below:
(1) "BAT" means best available technology economically achievable;
(2) "BCT" means best conventional pollutant control technology;
(3) "BMPs" means best management practices;
(4) "BOD" means biochemical oxygen demands;
(5) "BPT" means best practicable technology currently available;
(6) "CFR" means Code of Federal Regulations;
(7) "COD" means chemical oxygen demand;
(8) "CWA" means the Federal Clean Water Act;
(9) "DMR" means discharge monitoring report;
(10) "NPDES" means National Pollutant Discharge Elimination System;
(11) "POTW" means publicly owned treatment works;
(12) "SIC" means standard industrial classification;
(13) "TDS" means total dissolved solids;
(14) "TSS" means total suspended solids;
(15) "UPDES" means Utah Pollutant Discharge Elimination System;
(16) "UWQB" means the Utah Water Quality Board;
(17) "WET" means whole effluent toxicity.
1.8 UPGRADE AND RECLASSIFICATION. Upgrading or reclassification of waters of the State by the Utah Water Quality Board may be done periodically, but only using procedures and in a manner consistent with the requirements of State and Federal law.
1.9 PUBLIC PARTICIPATION. The Division will investigate and provide written response to all citizen complaints. In addition, the Director shall not oppose intervention in any civil or administrative proceeding by any citizen where permissive intervention may be authorized by statute, rule or regulation. The Director will publish notice of and provide at least 30 days for public comment on any proposed settlement of any enforcement action.
1.10 INCORPORATION OF FEDERAL REGULATIONS BY REFERENCE. The State adopts the following Federal standards and procedures, effective as of December 8, 1999 unless otherwise noted, which are incorporated by reference:
(1) 40 CFR 129 (Toxic Effluent Standards) with the following exceptions:
(a) Substitute "UPDES" for all federal regulation references to "NPDES".
(b) Substitute Director of the Division of Water Quality for all federal regulation references to "State Director".
(c) Substitute "R317-8-4.4, R317-8-6, and R317-8-7" for all federal regulation references to "40 CFR Parts 124 and 125".
(2) 40 CFR 133 (Secondary Treatment Regulation) with the following exceptions:
(a) 40 CFR 133.102 for which R317-1-3.2 is substituted.
(b) 40 CFR 133.105.
(c) Substitute "UPDES" or "Utah Pollutant Discharge Elimination System" for all federal regulation references for "NPDES" or "National Pollutant Discharge Elimination System", respectively.

(d) Substitute Director of the Division of Water Quality for all federal regulation references to "State Director" in 40 CFR 133.103.
(3) 40 CFR 136 (Guidelines Establishing Test Procedures for the Analysis of Pollutants)
(4) 40 CFR 403.6 (National Pretreatment Standards and Categorical Standards), effective as of May 16, 2008, with the following exception:
(a) Substitute Director of the Division of Water Quality for all federal regulation references to "Director".
(5) 40 CFR 403.7, effective as of May 16, 2008, (Removal Credits)
(6) 40 CFR 403.13, effective as of May 16, 2008, (Variances from Categorical Pretreatment Standards for Fundamentally Different Factors)
(7) 40 CFR Parts 405 through 411
(8) 40 CFR Part 412, effective as of July 30, 2012, with the following changes:
(a) Substitute Director of the Division of Water Quality for all federal regulation references to "Director".

(b) Substitute "UPDES" for all federal regulation references to "NPDES".
(c) Substitute "surface waters" of the state for all federal regulation references to "surface water," "waters of the United States," "navigable waters," or "U.S. waters."
(9) 40 CFR Parts 413 through 471
(10) 40 CFR 503 (Standards for the Use or Disposal of Sewage Sludge), effective as of the date that responsibility for implementation of the federal Sludge Management Program is delegated to the State except as provided in R317-1-6.4, with the following changes:
(a) Substitute Director of the Division of Water Quality for all federal regulation references to "Director".
(11) 40 CFR 122.30
(12) 40 CFR 122.32
(a) In 122.32(a)(2), replace the reference 122.26(f) with Subsection R317-8-11.3(5).
(13) 40 CFR 122.33
(a) In 122.33(b)(2)(i), replace the reference 122.21(f) with R317-8-3.1(6).
(b) In 122.33(b)(2)(i), replace the reference 122.21(f)(7) with R317-8-3.1(6)(g).
(c) In 122.33(b)(2)(ii), replace the reference 122.26(d)(1) and (2) with Subsection R317-8-11.3(3)(a)
(d) In 122.33(b)(3), replace the reference 122.26 with R317-8.
(e) In 122.33(b)(3), replace the reference 122.26(d)(1)(iii) and (iv); and (d)(2)(iv) with Subsections R317-8-11.3(4)(b)2 and 6; and (3)(b).
(14) 40 CFR 122.34
(a) In 122.34(b)(4)(i), replace the reference 122.26(b)(15)(i) with Subsection R317-8-11.3(6)(e)1.
(b) In 122.34(f), replace the references 122.41 through 122.49 with R317-8-4.1 through R317-8-5.4.
(c) In 122.34(g)(2), replace the reference 122.7 with R317-8-3.3.
(15) 40 CFR 122.35
(a) In 122.35, replace the reference 122 with R317-8.
(16) 40 CFR 122.36
(17) For the references R317-8-1.10(12), (13), (14), (15), and (16), make the following substitutions:
(a) Substitute the Director of the Division of Water Quality for the "NPDES permitting authority"
(b) Substitute "UPDES" for "NPDES"
(18) Effective as of July 30, 2012, 40 CFR 122.21(i) Application requirements for new and existing concentrated animal feeding operations and aquatic animal production facilities, 40 CFR 122.23 Concentrated animal feeding operations, 40 CFR 122.28(b)(2) Authorization to discharge, 40 CFR

122.42(e) Additional conditions applicable to specified categories of NPDES permits, 40 CFR 122.62(a)(17) Modification or revocation and reissuance of permits, Nutrient Management Plans, and 40 CFR 122.63(h) Minor modification of permits, changes to the terms of a CAFO's Nutrient Management Plan, with the following substitutions:

(a) Substitute "Director of the Division of Water Quality" for all federal regulation references to "Director" or "State Director".

(b) Substitute "UPDES" for all federal regulation references to "NPDES".

(c) Substitute "surface waters of the state" for all federal regulation references to "surface water," "waters of the United States," "navigable waters," or "U.S. waters."

(19) Effective as of [Enactment Date], 40 CFR 125.80-99, with the following substitutions:

(a) Substitute “Director of the Division of Water Quality” for all federal regulation references to “Director.”

(b) Substitute “UPDES” for all federal regulation references to “NPDES.”

(c) Substitute “surface waters of the state” for all federal regulation references to “waters of the United States” or “waters of the U.S.”

LOAN FUNDS FINANCIAL STATUS REPORT AUGUST 2024

STATE REVOLVING FUND (SRF)	State Fiscal Year 2025	State Fiscal Year 2026	State Fiscal Year 2027	State Fiscal Year 2028
CAP Grant Base Program				
Capitalization Grant Awards (FY23)	$ 3,952,000			
Future Capitalization Grant		$ -		
State Cap Grant Match (FY22)	$ 790,400	$ -	$ -	$ -
Future State Cap Grant Match	$ -	$ -	$ -	$ -
CAP Grant General Supplemental				
General Supplemental Grants (FY22-FY23)	$ 20,361,000	$ -	$ -	$ -
Future General Supplemental Grant	$ 11,983,000	$ 12,169,025	$ 12,169,025	$ -
State General Supplemental Grants Match (FY22-FY23)	$ 2,036,100			
Future State Gen. Sup Grants Match	$ 2,396,600	$ 2,433,805	$ 2,433,805	$ -
SRF - 2nd Round				
Account Balance	$ 14,515,590	$ 66,629	$ 18,644,850	$ 31,057,689
Interest Earnings at 5.4310%	$ 722,647	$ -	$ -	$ -
Loan Repayments (5255)	$ 17,307,194	$ 17,225,194	$ 16,977,794	$ 20,691,107
Total Funds Available	$ 74,064,530	$ 31,894,653	$ 50,225,474	$ 51,748,796
CWSRF Program Obligations				
Admin Expenses for all CAP Grant Awards	$ (1,561,240)	$ (576,441)	$ (531,601)	$ (400,000)
Cap Grant Principal Forgiveness (PF) (FY18-23)	$ (9,133,980)	$ (6,710,540)	$ (12,673,362)	$ (18,636,185)
Future Cap Grant (PF portion)	$ -	$ -	$ -	$ -
General Supplemental Grants (PF portion) FY22-23	$ (9,856,890)	$ -	$ -	$ -
Future General Supplemental Grants (PF portion)	$ (5,871,670)	$ (5,962,822)	$ (5,962,822)	$ -
Project Obligations				
Moab City	$ (80,000)	$ -	$ -	$ -
Provo City 262	$ (8,800,500)	$ -	$ -	$ -
Provo City 262b	$ (1,855,621)	$ -	$ -	$ -
Mountain Green	$ (584,000)	$ -	$ -	$ -
Payson City	$ (13,425,000)	$ -	$ -	$ -
Loan Authorizations				
North Logan	$ (3,500,000)	$ -	$ -	$ -
Mt. Pleasant	$ (2,535,000)	$ -	$ -	$ -
Monticello	$ (1,214,000)	$ -	$ -	$ -
Wolf Creek	$ (6,404,000)	$ -	$ -	$ -
Brian Head	$ (1,900,000)	$ -	$ -	$ -

*WQB Agenda Items

Ash Creek SSD - Virgin	$ (6,876,000)	$ -	$ -	$ -
Lewiston	$ (400,000)	$ -	$ -	$ -
Planned Projects				
Corrine* ($7,234,900)		$ -	$ -	$ -
Beaver* ($7,351,325)		$ -	$ -	$ -
Provo* ($50,000,000)		$ -	$ -	$ -
Grantsville* ($34,231,000)		$ -	$ -	$ -
CWSRF Obligations	$ (73,997,901)	$ (13,249,803)	$ (19,167,786)	$ (19,036,185)
CWSRF Remaining Loan Balance	$ 66,629	$ 18,644,850	$ 31,057,689	$ 32,712,611
Addt'l Subsidy - Principal Forgiveness				
PF Balances (max for FY18-23)	$ 9,133,980	$ 6,710,540	$ 12,673,362	$ 18,636,185
Future Cap Grant (PF portion) FY24	$ -	$ -	$ -	$ -
General Supplemental Balances (PF portion) FY22-23	$ 9,856,890			
Future General Supplemental Grants (PF portion)	$ 5,871,670	$ 5,962,822	$ 5,962,822	$ -
Project Obligations				
South Salt Lake City (A)	$ (2,584,000)	$ -	$ -	$ -
Millville City	$ (2,750,000)	$ -	$ -	$ -
Provo City	$ (7,000,000)	$ -	$ -	$ -
Payson City	$ (1,000,000)	$ -	$ -	$ -
Hanksville Town	$ (1,718,000)			
Addt'l Subsidy Authorizations				
Lewiston	$ (3,100,000)			
Planned Projects				
Principal Forgiveness Obligations	$ (18,152,000)	$ -	$ -	$ -
Principal Forgiveness Remaining Balance	$ 6,710,540	$ 12,673,362	$ 18,636,185	$ 18,636,185
	State Fiscal Year	State Fiscal Year	State Fiscal Year	State Fiscal Year
UTAH WASTEWATER LOAN FUND (UWLF)	2025	2026	2027	2028
Funds Available				

*WQB Agenda Items

UWLF	$ 37,793,212	$ 24,254,624	$ 26,048,279	$ 27,774,253
Sales Tax Revenue	$ 3,587,500	$ 3,587,500	$ 3,587,500	$ 3,587,500
Loan Repayments (5260)	$ 2,638,912	$ 2,565,360	$ 2,497,679	$ 2,529,312
Total Funds Available	$ 44,019,624	$ 30,407,484	$ 32,133,458	$ 33,891,065
General Obligations				
State Match Transfers Base Cap Grant	$ (790,400)	$ -	$ -	$ -
State Match Transfers Gen. Supplemental Grant	$ (2,036,100)	$ -	$ -	$ -
State Future Match Transfers Gen. Supplemental Grant	$ (2,396,600)	$ (2,433,805)	$ (2,433,805)	
DWQ Administrative Expenses	$ (1,898,900)	$ (1,925,400)	$ (1,925,400)	$ (1,925,400)
Project Obligations				
South Salt Lake City (B)	$ (4,891,000)	$ -	$ -	$ -
South Salt Lake City (C)	$ (982,000)	$ -	$ -	$ -
Hanksville Town	$ (150,000)	$ -	$ -	$ -
Grantsville	$ (750,000)	$ -	$ -	$ -
Spanish Fork	$ (4,400,000)	$ -	$ -	$ -
Loan Authorizations				
Long Valley	$ (1,470,000)	$ -	$ -	$ -
Planned Projects				
North Fork SSD* ($2,850,000)		$ -	$ -	$ -
Total Obligations	$ (19,765,000)	$ (4,359,205)	$ (4,359,205)	$ (1,925,400)
UWLF Remaining Loan Balance	$ 24,254,624	$ 26,048,279	$ 27,774,253	$ 31,965,665
TOTAL LOAN FUND BALANCE	$ 31,031,793	$ 57,366,491	$ 77,468,126	$ 83,314,461
PROJECT RESERVE		$ (5,000,000)	$ (10,000,000)	$ (15,000,000)
TOTAL AVAILABLE LOAN FUNDS	$ 31,031,793	$ 52,366,491	$ 67,468,126	$ 68,314,461

*WQB Agenda Items

HARDSHIP GRANT FUNDS FINANCIAL STATUS REPORT AUGUST 2024

HARDSHIP GRANT FUNDS (HGF)	State Fiscal Year 2025	State Fiscal Year 2026	State Fiscal Year 2027	State Fiscal Year 2028
Funds Available				
Beginning Balance	$ -	$ 3,939,163	$ 3,873,171	$ 3,757,296
Federal HGF Beginning Balance (5250)	$ 2,305,483	$ -	$ -	$ -
State HGF Beginning Balance (5265)	$ 7,364,289	$ -	$ -	$ -
Hardship Grant Assessments (5255)	$ 753,214	$ 657,624	$ 624,522	$ 590,676
Interest Payments - (5260)	$ 295,899	$ 276,384	$ 259,603	$ 248,253
Advance Repayments	$ -	$ -	$ -	$ -
Total Funds Available	$ 10,718,885	$ 4,873,171	$ 4,757,296	$ 4,596,225
St George Appropriation				
Beginning Balance	$ 13,066,000			
Authorizations				
St. George Graveyard Wash Res	$ (13,066,000)			
Total Funds Available	$ -	$ -	$ -	$ -
Financial Assistance Project Obligations				
Delta - Design Grant	$ (73,100)	$ -	$ -	$ -
Daggett County Dutch John - Planning	$ (95,000)	$ -	$ -	$ -
Daggett County Dutch John - HGF Loan	$ (60,000)	$ -	$ -	$ -
Eagle Mountain City - Construction Grant	$ (510,000)	$ -	$ -	$ -
Elwood - Planning	$ (18,200)	$ -	$ -	$ -
Grantsville - Design Advance	$ (300,000)	$ -	$ -	$ -
Kanab City Planning Advance	$ (29,800)	$ -	$ -	$ -
Kane County - Hardship Grant	$ (281,000)	$ -	$ -	$ -
Lewiston City - Design and Construction	$ (460,000)	$ -	$ -	$ -
Lewiston City - De-Obligation	$ 460,000	$ -	$ -	$ -
Long Valley - Design	$ (84,300)	$ -	$ -	$ -
Millville City - Construction Grant	$ (1,000,000)	$ -	$ -	$ -
Rockville Town - Hardship Grant	$ (18,832)	$ -	$ -	$ -
Spanish Fork - Hardship Grant	$ (500,000)	$ -	$ -	$ -
Spring City - Design Advance	$ (56,070)	$ -	$ -	$ -
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	$ (5,278)	$ -	$ -	$ -
(FY15) DEQ - Ammonia Criteria Study	$ (27,242)	$ -	$ -	$ -

*WQB Agenda Items

(FY17) DEQ - Utah Lake Water Quality Study	$ (348,301)	$ -	$ -	$ -
(FY19) USU - Nutrient Concentrations Paleolimnology of Utah Lake	$ (4,715)	$ -	$ -	$ -
FY 2019 - Remaining Payments	$ (45,522)	$ -	$ -	$ -
FY 2020 - Remaining Payments	$ (36,548)	$ -	$ -	$ -
FY 2021 - Remaining Payments	$ (84,796)	$ -	$ -	$ -
FY 2022 - Remaining Payments	$ (395,915)	$ -	$ -	$ -
FY 2023 - Remaining Payments	$ (452,896)	$ -	$ -	$ -
FY 2024 - Remaining Payments	$ (719,039)	$ -	$ -	$ -
FY 2025 - Remaining Payments	$ (1,000,000)	$ -	$ -	$ -
Future NPS Annual Allocations		$ (1,000,000)	$ (1,000,000)	$ (1,000,000)
Authorizations				
Mt. Pleasant - Hardship Grant	$ (135,000)	$ -	$ -	$ -
Richmond - Short Term Loan	$ (99,800)	$ -	$ -	$ -
Hyrum - Short Term Loan	$ (74,900)	$ -	$ -	$ -
Virgin Town - Short Term Loan	$ (60,000)	$ -	$ -	$ -
Corinne - Planning Advance	$ (102,900)	$ -	$ -	$ -
Planned Projects		$ -	$ -	$ -
Fairfield Planning Advance*	$ (33,290)	$ -	$ -	$ -
Total Obligations	$ (6,779,723)	$ (1,000,000)	$ (1,000,000)	$ (1,000,000)
HGF Unobligated Funds	$ 3,939,163	$ 3,873,171	$ 3,757,296	$ 3,596,225

*WQB Agenda Items

State of Utah

Wastewater Project Assistance Program

Project Priority List

As of August 12, 2024

Rank	Project Name	Funding Authorized	Total Points	Point Categories			
				Project Need	Potential Improvement	Population Affected	Special Consideration
1	Grantsville		140	50	23	7	60
2	Provo		131	50	18	10	60
3	Beaver		109	40	5	4	60
4	Corinne City		107	50	16	1	40
5	North Logan	X	86	25	14	7	40
6	Mt Pleasant	X	79	10	5	4	60
7	Ash Creek - Virgin Town	X	64	25	18	1	20
8	Monticello	X	61	0	19	2	40
9	Lewiston City	X	60	25	14	1	20
10	Wolf Creek	X	57	10	5	2	40
11	North Fork SSD		36	10	5	1	20
12	Dutch John (Dagget County)	X	28	10	17	1	0
13	Brian Head	X	11	5	5	1	0
14	Long Valley SID	X	11	10	0	1	0

X - funding authorized

State of Utah

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Lieutenant Governor

Department of
Environmental Quality

Kimberly D. Shelley
Executive Director

DIVISION OF WATER QUALITY
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John K. Mackey

WATER QUALITY BOARD
REQUEST FOR HARDSHIP PLANNING ADVANCE FOR WASTEWATER CAPITAL FACILITIES PLAN

APPLICANT:	Town of Fairfield 103 East Main Street Fairfield, UT 84013 (801)-766-3509
PRESIDING OFFICIAL:	Mayor Hollie McKinney PO Box 271 Cedar Valley, UT 84013 (801)-766-3509
TREASURER/RECORDER:	Stephanie Shelley
CONSULTING ENGINEER:	Eric Neil, P.E. Bowen Collins & Associates (801)-495-2224
CITY ATTORNEY:	Todd Sheeran (801)-446-5323

APPLICANT'S REQUEST

The Town of Fairfield is requesting a **hardship planning advance** in the amount of $33,290 to pay for a Sewer Master Plan which will review the existing sewer collection and treatment facilities and the impact of future growth on these facilities as well as include an Impact Fee Facilities Plan and Impact Fee Analysis.

APPLICANT'S LOCATION

The Town of Fairfield is about 5 miles southwest of Eagle Mountain, and is in Utah County.



PROJECT NEED

The Town of Fairfield is expecting several new nonresidential developments to begin construction within its boundaries over the next several years. No centralized wastewater collection or treatment exists in the Town, with all current residents utilizing septic systems for wastewater disposal. In response to the expected growth, Town leaders would like to plan for future collection and treatment of wastewater by hiring Bowen Collins and Associates to create a Sewer Master Plan. The planning studies proposed in this application are critical for Fairfield Town to complete at this time in order to grow as developers approach the Town for utility needs now and in the future. Without a planning advance, Fairfield Town does not have the funds on hand to prepare the Sewer Master Plan, IFFP, or IFA at this time. Funding these plans through the Town's approximately 155 existing residents is not practical, as it would be a financial hardship to many of these residents (at approximately $170 per resident).

PROJECT DESCRIPTION

The proposed Sewer Master Plan will provide the Town direction about the future extent and cost of a collections system. It will also consider alternatives for wastewater treatment and recommend the most finically sustainable treatment option for the Town. The study included in this application will also complete an Impact Fee Facilities Plan (IFFP) and Impact Fee Analysis (IFA), which will allow the Town to be better financially prepared to begin planning and construction of a new sewer system.

IMPLEMENTATION SCHEDULE

The estimated plan completion date is before summer 2025.

COST ESTIMATE

Fairfield Town is requesting $33,290 from the Water Quality Board.

STAFF COMMENTS

This is a small rural community with limited capital reserves. The planning advance would allow the Town to perform the necessary assessment to determine the most cost-effective way to implement a sewer collection and treatment system. This could have a positive effect on groundwater water quality in the area.

STAFF RECOMMENDATION

Staff recommends the Board authorizes a planning grant of $33,290 to the Town of Fairfield with the following special conditions:

1. The Division of Water Quality must approve the engineering agreement and plan of study before the advance will be executed.

2. This funding is a grant and will not be repaid.

State of Utah

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Executive Secretary

WATER QUALITY BOARD

FEASIBILITY REPORT FOR WASTEWATER TREATMENT PROJECT

INTRODUCTION

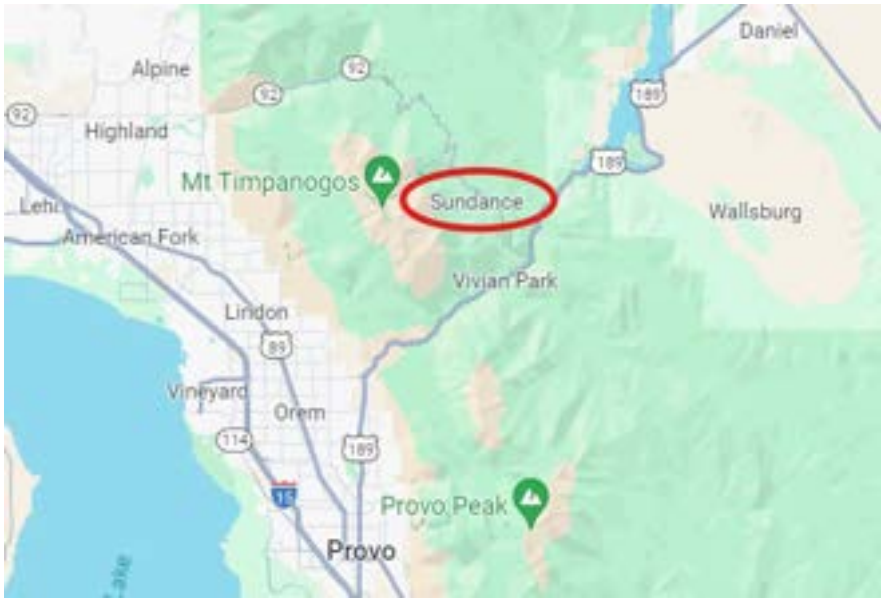
APPLICANT:	North Fork Special Service District (NFSSD) 8838 Alpine Loop Scenic Byway Sundance, UT 84604 Telephone: (801) 362-6013
PRESIDING OFFICIAL	Dr. Stephen Minton, President of the Board
CONTACT:	Chris Wright, Public Works Director
TREASURER:	Emily Johnson, District Clerk
CONSULTING ENGINEER:	Ryan Taylor, Lead Engineer Adurra 2175 W 3000 S Suite 200 Heber City, UT (435) 503-4123
BOND COUNSEL:	None
FINANCIAL ADVISOR	Joe Martin, CPA NFSSD (801) 717-5861

APPLICANT'S REQUEST

NFSSD is requesting funding from the Utah Water Quality Board (Board) in the amount of **$3,551,000** to increase the capacity of the current facility to meet permit requirements.

APPLICANT'S LOCATION

NFSSD serves Sundance, UT, Sundance Ski Resort, and the surrounding area. Sundance is located in Utah County.



PROJECT BACKGROUND

NFSSD completed a Preliminary Engineering Report in 2023 to examine the best options for future upgrades for the existing Wastewater Treatment Facility (WWTF). The WWTF began operation in 2008 and consists of headworks, biological treatment with membrane bioreactors, and solids dewatering. The facility is unable to adequately treat the wastewater due to large amounts of fat, oil, and grease (FOG).

PROJECT NEED

The existing facility capacity is insufficient to meet the current community demands, specifically higher levels of FOG and biochemical oxygen demand (BOD) are limiting the hydraulic capacity and limiting the facility's ability to meet permit limits. The anticipated growth will result in exceedance of current permit limits without an upgrade. Therefore, NFSSD will upgrade the facility with an additional membrane basin and a new primary dissolved air flotation (DAF) system.

PROJECT DESCRIPTION

The upgrade to the system will include coagulation and polymer tanks, a primary sludge storage tank, one pre-air zone tank, and two swing zone tanks. These upgrades are intended to improve the facility's nutrient removal process by removing FOG which will increase the capacity of the system.

The project was bid during July of 2024 with a low bid of $9,250,000. It is important to note that NFSSD bid the project without federal requirements of the Clean Water State Revolving Funds so the project can only utilize Utah Wastewater Loan Fund or Hardship Grant Fund without being rebid.

ALTERNATIVES EVALUATED

NFSSD developed a preliminary engineering report with multiple recommendations to improve the treatment system. Those alternatives include the installation of a flow trap, equalization tank installation, and blower modification.

POSITION ON PROJECT PRIORITY LIST

NFSSD is currently ranked No. **11** of 14 on the FY 2024 Wastewater Treatment Project Priority List (PPL).

POPULATION GROWTH

The Sundance population is dominated by seasonal visitors. Estimates range from 28 to 750 people with the Census website reporting 113 population for the Sundance census designated population. Growth rates have historically been 2%. NFSSD serves approximately 665 ERUs.

PUBLIC PARTICIPATION AND DEMONSTRATION OF PUBLIC SUPPORT

Public board meetings are held every month, which are advertised and held online to encourage residents to attend. In addition, wastewater community meetings are held to provide additional information and the district has presented this project at community events. The board fully supports the project, and their largest user Sundance has been to all the meetings and supports the project. The community feedback from meetings has been positive.

EFFORTS TO SECURE FINANCING FROM OTHER SOURCES

NFSSD has received grant funding from DEQ's Utah Lake Preservation Fund ARPA Grant Program in the amount of $3,000,000, the Governor's Local Matching ARPA Grant Program in the amount of $4,000,000, and a grant from the Governor's Office of Economic Opportunity in the amount of $1,000,000. While managing the project for Utah Lake Preservation Fund Division staff identified the project was not likely fully funded to proceed with construction and encouraged NFSSD to apply to the Board.

IMPLEMENTATION SCHEDULE

Construction will be initiated in 2024 and will finish in 2025.

APPLICANT'S CURRENT USER CHARGE

Currently, NFSSD charges $86 per ERU. According to the Board's criteria of 1.4% MAGI ($146,250[1] for Sundance), a rate of $170.63 per month for wastewater service should be exceeded for grant consideration. NFSSD does not have an impact fee or hookup fee. Currently, NFSSD has a 20-year 3% loan for $3,810,000 with the Board from 2006 with an annual payment of approximately $215,000. According to Division records, the last payment on this bond is due January 1, 2028.

COST ESTIMATE

The total cost of the project is estimated to be $11,641,000. A breakdown of these costs follows.

Legal/Bonding	$30,000
Loan Origination Fee	$36,000
Engineering – Design & CMS	$1,500,000
Subsurface Discharge Expansion	$1,000,000

[1] https://data.census.gov/table/ACSST5Y2022.S1903?q=Sundance%20CDP,%20Utah&t=Income%20and%20Poverty

Wastewater Treatment Plant	$8,250,000
Contingency (10%)	$825,000
Total Project Costs	$11,641,000

COST SHARING

The total cost of project funding for the entire project is $11,641,000.

Funding Source	**Cost Sharing**
Local Contribution	$90,000
DEQ's Utah Lake Preservation Fund ARPA Grant Program	$3,000,000
Governor's Office of Economic Opportunity	$1,000,000
Governor's Local Matching ARPA Grant Program	$4,000,000
Amount To Be Financed	$3,551,000

ESTIMATED ANNUAL COST FOR SEWER SERVICE

Division staff developed static cost models (Attachment 1) to evaluate potential funding by the Board. The cost model analyzes several possible funding options. The resulting Total Annual Sewer Cost is shown for each funding option.

FINANCIAL BURDEN EVALUATION

In accordance with the Board's Financial Burden Evaluation Policy for the Utah Wastewater Project Assistance Program, Division staff utilized data from the United State Census Bureau (census) website (https://data.census.gov/cedsci/) to calculate the Sundance's Financial Need Indicator (FNI). The calculated FNI is 2.12. Division staff compared this FNI to the percent modified MAGI in the Financial Burden Matrix and displayed the Financial Burden in Attachment 1. Based on the Financial Burden Evaluation Policy for the Utah Wastewater Project Assistance Program, the community has a Financial Burden of **Low**.

DIVISION STAFF COMMENTS AND RECOMMENDATION

This report is a project introduction; Division staff recommendations will be provided at the October Board Meeting. This project would need to be funded by either the Utah Wastewater Loan Fund or Hardship Grant Fund due to the certifications that were in the bid package.

ATTACHMENT 1
NFSSD - Water Quality Board
20 Year Loan Static Cost Model

Project Costs

Legal/Bonding	$	30,000
Loan Origination Fee	$	36,000
Engineering - Other	$	250,000
Engineering - Planning	$	175,000
Engineering - Design	$	675,000
Engineering - CMS	$	400,000
Subsurface Discharge Expansion	$	1,000,000
Wastewater Treatment Plant	$	8,250,000
Contingency (10%)	$	825,000
Total Project Cost:	**$**	**11,641,000**

Current Customer Base & User Charges

Initial Total Customer (ERU's)		665
MAGI for NFSSD (2021):		$146,250
Affordable Monthly Rate at 1.4%		$170.63
Impact Fee (per ERU):		$0
Current Monthly Fee (per ERU)		$86.00
Debt Service last Payment Jan 1, 2028		$215,000
Debt Service as of Jan 1, 2029	$	-
Annual O&M expense		$565,269

Project Funding

Local Contribution	**$**	**90,000**
UT Governor's Office of Economic Opportunity Grant	**$**	**1,000,000**
ARPA - GOPB Local Match Grant	**$**	**4,000,000**
ARPA - DEQ Utah Lake Preservation Fund Grant	**$**	**3,000,000**
Amount to be Funded	**$**	**3,551,000**
Total Project Cost:	**$**	**11,641,000**

Funding Conditions

Loan Repayment Term:	20
Reserve Funding Period:	6

ESTIMATED COST OF SEWER SERVICE (assuming first principal payment January 1, 2029)

Hardship Grant Funds	WQB UWLF Loan	Private Loan Amount	WQB Loan Interest Rate	Private Loan Interest Rate*	WQB Loan Debt Service	WQB Loan Reserve	Private Loan Debt Service	Annual Sewer	Existing Debt Service	Total Annual Sewer Cost	Monthly Sewer Cost/ ERU	Sewer Cost as % of MAGI	Financial Burden
-	0	3,551,000	3.30%	4.50%	0	0	272,987	565,269	$ -	838,256	105.04	0.86%	**LOW**
-	3,551,000	0	3.30%	4.50%	245,352	61,338	0	565,269	$ -	871,959	109.27	0.90%	**LOW**
-	3,551,000	0	2.80%	4.50%	234,291	58,573	0	565,269	$ -	858,133	107.54	0.88%	**LOW**
-	3,551,000	0	2.30%	4.50%	223,505	55,876	0	565,269	$ -	844,651	105.85	0.87%	**LOW**
-	3,551,000	0	1.80%	4.50%	212,999	53,250	0	565,269	$ -	831,517	104.20	0.85%	**LOW**
-	3,551,000	0	1.30%	4.50%	202,776	50,694	0	565,269	$ -	818,739	102.60	0.84%	**LOW**
-	3,551,000	0	0.80%	4.50%	192,840	48,210	0	565,269	$ -	806,319	101.04	0.83%	**LOW**
-	3,551,000	0	0.00%	4.50%	177,550	44,388	0	565,269	$ -	787,207	98.65	0.81%	**LOW**

*Staff Estimate

FNI Calculation

	Local Value	State Value	Score	Weighting Factor	Weighting Score	Table **
Unemployment Rate	0.0%	3.6%	1.00	4	4.00	S2301
Poverty Rate	14.9%	9.1%	2.16	2.5	5.40	S1701
Threshold LQI	$ 74,500	$ 35,445	1.00	2.5	2.50	B19080
Population Growth Rate	68.0%	18.6%	1.00	1	1.00	B01003
Financial Need Indicator (Sum of weighted Scores/10)					**1.29**	

2020 5 year ACS Table

** https://data.census.gov/cedsci/

Financial Burden Matrix

	Modified MAGI				
FNI	Below 1.4%	1.4% to 1.75%	1.75% to 2.1%	2.1% to 2.45	Above 2.45
Below 1.5	Low	Low	Medium	Medium	High
1.5 to 2.5	Low	Medium	Medium	High	High
Above 2.5	Medium	Medium	High	High	High

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WATER QUALITY BOARD
FEASIBILITY REPORT FOR SEWER IMPROVEMENT PROJECT

INTRODUCTION

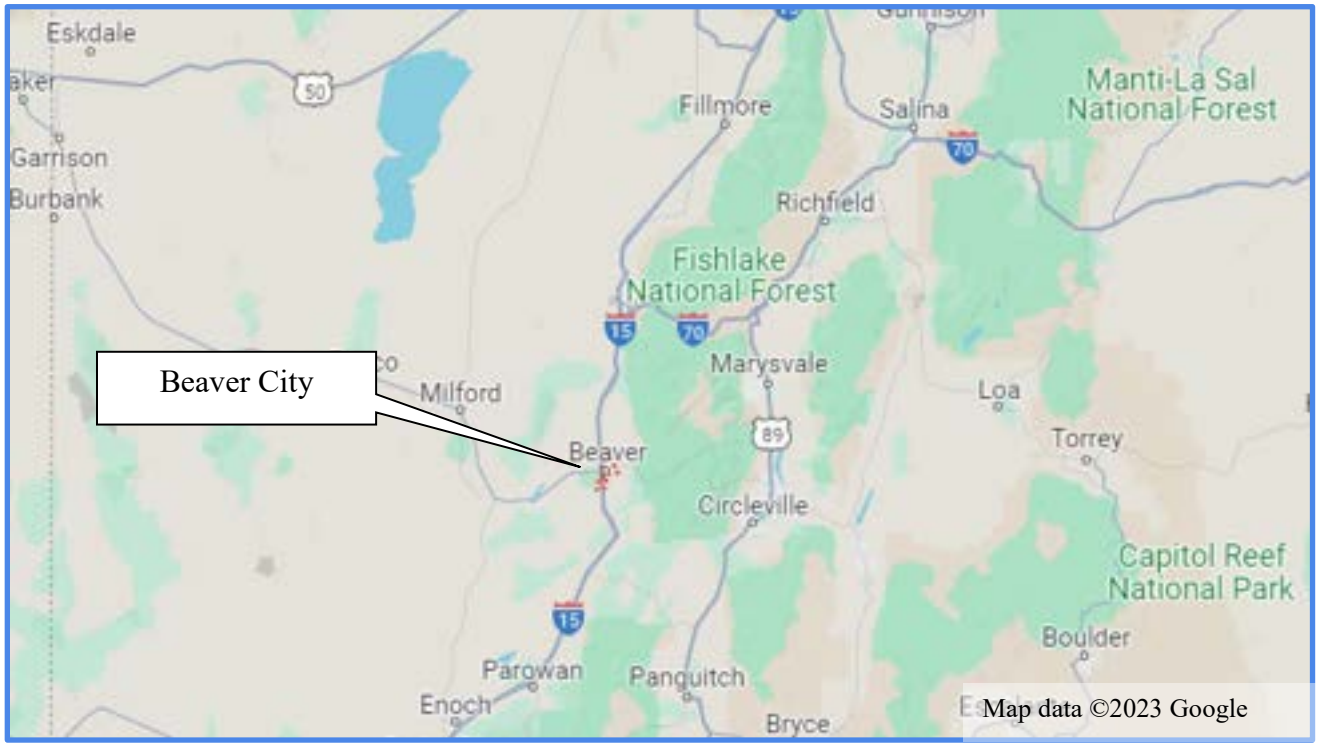
APPLICANT:	Beaver City 30 West 300 North Beaver, Utah 84713 Phone: (435) 438-2451
PRESIDING OFFICIAL:	Mayor Matt Robinson Phone: (435) 438-2451
CONTACT:	Jason Brown, City Manager 30 West 300 North P.O. Box 271 Beaver, Utah 84713 Phone: (435) 438-2451 Email: jbrown@beaverutah.net
TREASURER/RECORDER:	Patty Simard, City Recorder Email: bcrecorder@beaverutah.net Stacey Phelps, Treasurer Email: sphelps@beaverutah.net Phone: (435) 438-2451
CONSULTING ENGINEER:	Carson Demille, Engineer Jones and DeMille Engineering, Inc. Phone: (435) 896-8266

APPLICANT'S REQUEST

Beaver City is requesting funding from the Water Quality Board in the amount of **$6,551,325** to upgrade the sewer system by upgrading and reconstructing the lagoon system and a lift station. This amount is increased to $6,618,000 in the financial analysis to account for the loan origination fee and the requirement that loans be awarded in $1,000 increments.

APPLICANT'S LOCATION

Beaver City is located in Beaver County, approximately 200 miles south of Salt Lake City.



BACKGROUND

Beaver City (the "City") has a population of approximately 3,700 residents and is the main residential and commercial hub for Beaver County.

The City owns and operates its sewer collection and treatment systems. The City has approximately 200,000 feet of sewer piping with the majority draining into a lift station pumping to a total containment sewer lagoon system. A small commercial area at the south end of the City has private lift stations that also pump into the lagoon system. The lagoon site has two lift stations to allow pumping into the system's upper holding cells. The lagoons were updated in 2001 and consist of 19.3-acres of primary cells, 28.1-acres of secondary cells, and 31.8-acres of holding cells.

While the existing treatment system has the needed lagoon capacity to meet future demands there are issues with the current design. The current primary cell inlets are located too close to the outlets, leading to short circuiting of the cells. Several concrete structures such as flow splitters are deteriorated. The slope protection riprap is failing and no longer properly protects the embankments. Neither lagoon site lift station has the needed capacity for a 20-year design, and one lift station is unusable due to intake clogging. Testing of the lagoon influent has also shown that the existing lagoon primary cells are not large enough to meet state regulated Biological Oxygen Demand (BOD) loadings.

Several areas of the City's collection system have been identified to have condition and capacity problems. The force main from the City lift station across the Beaver River floodplain is aging and needing more and more maintenance.

The City is currently beginning a self-funded project to replace 5,180 linear feet of 8-inch PVC sewer line and 1,000 linear feet of 4-inch PVC sewer laterals for an industrial park near the south freeway interchange. A second self-funded project to replace 950 linear feet of 8-inch PVC sewer line along 250 South will be completed in the near future. The two sewer improvement projects will cost the City an estimated $300,000.

PROJECT NEED

The existing lagoon system does not have sufficient primary cell capacity for current and future BOD loading on the system. There are components of the lagoon and collection system that are failing and need to be replaced or upgraded.

The City's Sanitary Sewer Master Plan indicates that, while the existing wastewater collection system has sufficient capacity for the current and 40-year growth projections, the existing force main from the City lift station has had cracking and leaking issues creating maintenance problems for the City. This has resulted in the need for the existing 10-inch PVC pipe be replaced with a new 10-inch HDPE pipe to reduce these maintenance issues.

Additionally, even though the existing lagoons have enough hydraulic capacity to handle the projected 20-year growth, the current cells are in poor condition and the layout is not capable of handling the existing BOD loadings.

PROJECT DESCRIPTION

The project generally consists of sewer lagoon and force-main improvements.

More specifically, the project consists of rehabilitating and modifying the existing lagoons to provide a 20-year design capacity for the lagoons; a total of 48 acres of primary lagoon cells are needed to meet state BOD loading requirements. Combining the existing primary and secondary cells into two larger primaries will provide this needed area. Construction on the new primary cells would include new piping, inlets, outlets, splitter boxes, and a new lift station. The existing storage cells would be converted to secondary cells and rehabilitated to ensure proper function over a 20-year design period. The existing 10-inch force main from the City lift station across the Beaver River floodplain would be replaced with a 10-inch HDPE pipe.

ALTERNATIVES EVALUATED

In their Facility Plan the City Evaluated 5 alternatives including:

Alternative 1: No Action Alternative
Alternative 2: Rebuild Existing Lagoons and Start a Pretreatment Program
Alternative 3: Rebuild Existing Lagoons and Add Aeration
Alternative 4: Move Lagoons West Across 2500 South
Alternative 5: Replace Lagoons with Mechanical Treatment

POSITION ON PROJECT PRIORITY LIST

The City project is currently ranked No. 03 of 14 on the FY 2024 Project Priority List (PPL)

IMPLEMENTATION SCHEDULE

Design will begin in 2024, Construction will begin in 2025 and is anticipated to be completed in 2026.

APPLICANTS CURRENT USER CHARGE

The City charges a base rate of $22.00 per month per ERU with a flow-based charge per thousand gallons ($1.00/thousand gallons for use over $10,000 gallons per month). According to the Water Quality Board's (Board) criteria of 1.4% of MAGI ($41,600 for Beaver City), a rate of $48.53 per month for wastewater service should be exceeded for grant consideration.

COST ESTIMATE

Project Costs	
Admin/Legal/Bonding	$ 10,000
Loan Origination Fee	$ 66,180
Geotechnical	$ 40,000
Environmental	$ 40,000
Pre-Construction Engineering	$ 397,000
Construction Engineering Services	$ 458,000
Construction	$ 5,308,325
Contingency	$ 798,495
Total Project Cost:	**$ 7,118,000**

COST SHARING

Funding Source	Total	% of Project
Local Contribution	$ 500,000	7.1%
WQB Request	$ 6,618,000	92.9%
Total Amount	**$ 7,118,000**	**100.0%**

EFFORTS TO SECURE FINANCING FROM OTHER SOURCES

The City is currently applying to CIB for the funding. Currently, CIB's meeting is scheduled for September 5, 2024. It is likely the City will know the results of their CIB application during that meeting. Knowing the limited CIB funds, Division of Water Quality (Division) staff encouraged the City to apply to the Board as there is a good possibility that they will need funding from both sources to complete the project. The cost model has been prepared with only a single funding source, but as a loan appears to be affordable it should not affect the affordability regardless of whether the project is funded by CIB or Division as loan. The City also has $500,000 available as a local contribution.

ESTIMATED ANNUAL COST FOR SEWER SERVICE

Division staff developed static cost models (Attachment 1) to evaluate funding by the Board. The cost model analyzes several possible funding options. The resulting Total Annual Sewer Cost is shown for each funding option.

FINANCIAL BURDEN EVALUATION

The cost for model shows the City may qualify for principal forgiveness consideration under the State Affordability Criteria as part of a funding package depending on the interest rate of the loan portion. In accordance with the Board's Financial Burden Evaluation Policy for the Utah Wastewater Project Assistance Program, Division staff utilized data from the United State Census Bureau (census) website (https://data.census.gov/cedsci/) to calculate the City's Financial Need Indicator (FNI). The calculated FNI is 1.34. Division Staff compared this FNI to the percent modified MAGI in the Financial Burden Matrix and displayed the Financial Burden in Attachment 1. Based on the Financial Burden Evaluation Policy for the Utah Wastewater Project Assistance Program, the community has a Financial Burden of Low.

As can be seen in the attachment an interest rate of 0.60% would result in a rate equal to 1.4% of MAGI. Therefore, the project is affordable as a loan.

STAFF COMMENTS AND RECOMMENDATIONS

The City Sewer Improvements project will address needed improvements to the sewer and lagoon system.

This project is being introduced. Division Staff recommendations will be made in a later Board meeting. A preliminary cost model is included as Attachment 1

Beaver City
August 28, 2024
Attachment 1

Beaver City
30 Year Static Cost Model
(Attachment 1)

Project Costs	Sewer
Admin/Legal/Bonding	$ 10,000
Loan Origination Fee	$ 66,180
Geotechnical	$ 40,000
Environmental	$ 40,000
Pre-Construction Engineering	$ 397,000
Construction Engineering Services	$ 458,000
Construction	$ 5,308,325
Contingency	$ 798,495
Total Project Cost:	**$ 7,118,000**

Project Funding	
Local Contribution	$ 500,000
CIB Funding Requsted	$ 6,618,000
Total Project Cost:	**$ 7,118,000**

Current Customer Base & User Charges	
Total ERC	1,440
MAGI (Beaver City 2021):	$ 41,600
1.4% MAGI Sewer Bill:	**$ 48.53**
*Current Sewer Bill	$ 22.00
EXISTING DEBT	$ -
O&M Expenses	$ 596,180
* Does not include usage charge	
Funding Conditions	
Loan Repayment Term:	30

ESTIMATED COST OF SEWER SERVICE

Grant Amount	Loan Amount	Interest Rate	Loan Debt Service	Annual Sewer O&M Cost	Existing Debt Service	Total Annual Sewer Cost	Monthly Sewer Cost/ERU	Sewer Cost as a % of MAGI	Financial Burden
$ -	$ 6,618,000	0.00%	$220,600	$ 596,180	$ -	$ 816,780	47.27	1.36%	Low
$ -	$ 6,618,000	0.60%	$241,709	$ 596,180	$ -	$ 837,889	48.49	1.40%	Low
$ -	$ 6,618,000	2.00%	$295,493	$ 596,180	$ -	$ 891,673	51.60	1.49%	Low
$ 1,000,000	$ 5,618,000	2.00%	$250,843	$ 596,180	$ -	$ 847,023	49.02	1.41%	Low
$ -	$ 6,618,000	2.50%	$316,192	$ 596,180	$ -	$ 912,372	52.80	1.52%	Low
$ 1,500,000	$ 5,118,000	2.50%	$244,526	$ 596,180	$ -	$ 840,706	48.65	1.40%	Low
$ -	$ 6,618,000	3.50%	$359,829	$ 596,180	$ -	$ 956,009	55.32	1.60%	Low
$ 2,000,000	$ 4,618,000	3.50%	$251,087	$ 596,180	$ -	$ 847,267	49.03	1.41%	Low
$ -	$ 6,618,000	4.00%	$382,720	$ 596,180	$ -	$ 978,900	56.65	1.63%	Low
$ 2,400,000	$ 4,218,000	4.00%	$243,927	$ 596,180	$ -	$ 840,107	48.62	1.40%	Low

Beaver City Financial Need Indicator					
Indicators	Local Value	StateValue	Score	Weighting Factor	Weighted Score
unemployment rate	1.10%	3.40%	1.00	4.00	4.00
Poverty Rate	7.70%	8.20%	1.00	2.50	2.50
Threshold LQI	$35,500	$41,337	1.56	2.50	3.90
Population Growth Rate	17.3%	18.7%	3.00	1.00	3.00
Financial Need Indicator (Sum of weighted Scores/10)					1.34

Table 3 Financial Burden Matrix

	Modified MAGI				
FNI	Below 1.4%	1.4% to 1.75%	1.75% to 2.1%	2.1% to 2.45	Above 2.45
Below 1.5	Low	Low	Medium	Medium	High
1.5 to 2.5	Low	Medium	Medium	High	High
Above 2.5	Medium	Medium	High	High	High

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
Robert Fehr
Michela Harris
Joseph Havasi
Trevor Heaton
Jill Jones
Kimberly D. Shelley
John K. Mackey

WATER QUALITY BOARD
REQUEST FOR CONSTRUCTION OF WASTEWATER COLLECTION & TREATMENT
FEASIBILITY REPORT INTRODUCTIN

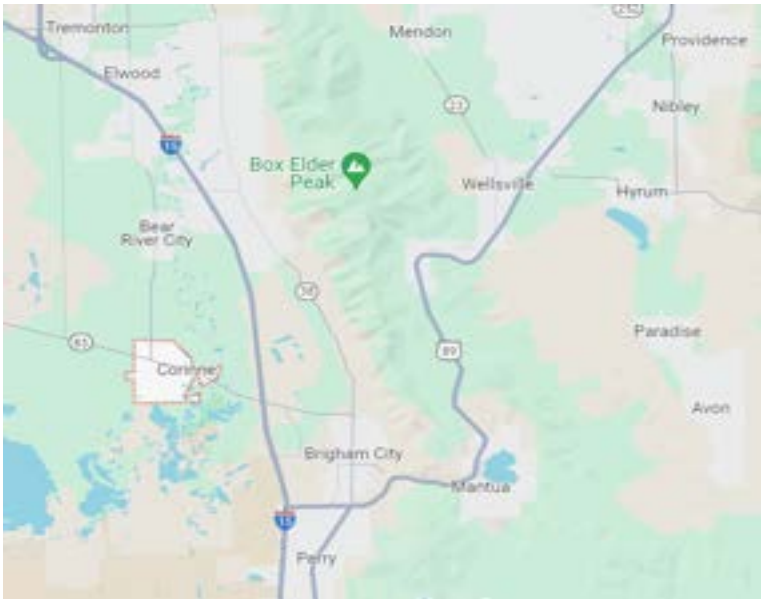
APPLICANT:	Corinne City 2420 N 4000 W Corinne, Utah 84307 Telephone: 435-744-5566
PRESIDING OFFICIAL:	Mayor Shane Baton
CONTACT PERSON	JL Nicholas Telephone: 435.720.7961
TREASURER/ RECORDER:	Kendra Norman
CONSULTING ENGINEER	Joshua Nelson – Engineer Sunrise Engineering Telephone: 435-563-3734
CITY ATTORNEY:	Craig Smith, Partner Smith Hartvigsen Telephone: 801-413-1600
BOND COUNSEL:	Adam Long Smith Hartvigsen Telephone: 801- 416-1600

APPLICANT'S REQUEST

Corinne City (Corinne) is requesting financial assistance in the amount **$7,372,900** for collection and treatment system improvements.

APPLICANT'S LOCATION

Corinne is located in Box Elder County.



BACKGROUND:

The collection and treatment systems serve Corinne with a current population of 867 people. The Corrine wastewater lagoons are permitted to discharge under a Division of Water Quality (Division) Utah Pollutant Discharge Elimination System (UPDES) Permit (UT0020931), which was renewed in 2021. Corinne conducted a study of the collection and lagoon treatment systems to identify deficiencies. The study was conducted in 2020 and identified deficiencies in sewer pipes, insufficient headworks, and inadequate screening capability. Corrine secured funding from the Community Impact Board (CIB) to complete this study. Sunrise Engineering prepared a master plan for the Corrine in January 2024.

The current Corinne sewer collection system was installed in 1970 with pipe sizes ranging from 8" to 12" in size. The original system was constructed primarily of reinforced concrete pipe. The original system has experienced very limited changes and has only been expanded with growth. There are four main portions of the Corinne sewer collection system.

The first section is known as the Ag Park, which includes the industrial/commercial buildings around Mule Ranch Road as well as the Walmart distribution center. These flows are pumped into a manhole that is near Mule Ranch Road and Hwy 13. The second area is the north side of Corinne which encompasses the residential areas north of Hwy 13 from roughly 4100 W to 3800 W, with flows general being conveyed to the south to the mainline along Hwy 13. The third area is the south side of Corinne from 4100 W to 3800 W with flows primarily being conveyed east to the mainline at 3800 W. The fourth area would be the Country Meadows Subdivision which has its own lift station to convey wastewater flows into a manhole on 4100 W.

The oldest areas (the north and south sides of Corinne) are being proposed to be replaced. These areas are the source of inflow and infiltration (I&I) that is contributing 35%-55% of the annual flows into the Corinne treatment lagoons. It is anticipated that if Corrine replaces these failing areas of infrastructure, then their Lagoons will be able to meet their discharge requirements.

PROJECT NEED:

The project is needed to address high levels of I&I in the sewer collection system caused by deteriorated concrete collection lines. Reducing system flows will help Corrine meet the Biochemical Oxygen Demand (BOD) requirements from the UPDES discharge permit.

PROJECT DESCRIPTION:

Corrine has prioritized the following recommended improvements as part of the project:

1. Collection line upgrades and replacement;
2. Pump Station; and
3. Force Main

POSITION ON PROJECT PRIORITY LIST:

Corinne is ranked No.**4** of 14 on the FY 2024 Wastewater Treatment Project Priority List (PPL).

POPULATION GROWTH

Based on the 2020 US Census Data the population of Corrine is projected to have a positive growth rate of 1.75%. Current populations and associated ERUs are shown in the table below along with the 20-year projections.

	Year	Population	ERU[1]
Current	2024	867	328
Design	2042	1,256	447

[1]ERU = Equivalent Residential Connection.

ALTERNATIVES EVALUATED

Corrine has evaluated the following alternatives:

1. No action and continue to use the existing collection and treatment lagoon system.
2. Replace of old sewer pipes and upgrade of lagoon headworks.

The recommended alternative is No. 2, which are replacement of failed sewer pipelines and improvement of lagoon headwork and screen system.

IMPLEMETAION SCHULDE

Apply to WQB for Construction Funding:	June 2024
Start Construction	March 2025
Complete Construction	September 2026

PUBLIC PARTICIPATION AND DEMONSTRATION OF PUBLIC SUPPORT:

Corrine held a public meeting in January 2024 to discuss the master plans, system-wide repair and replacement needs as required by the Utah Wastewater State Revolving Fund (SRF) program. Corrine will hold a final public hearing upon securing funding from the Board.

APPLICANT'S CURRENT USER CHARGE:

Operation & Maintenance – Annual	$ 160,000
Existing Sewer Debt Service	$ 0
Current ERC	328
Current Monthly Cost / ERU	$ 78.00

Corinne recently raised their sewer user rate to $78 per month.

COST ESTIMATE

DWQ Loan Origination Fee		$73,000
Legal - Bonding		$50,000
Permitting		$30,000
Planning Advance DWQ		$102,900
Engineering - Design		$1,176,000
Construction	*Lift Station*	$35,000
	Collection System	$4,756,000
	Force Main	$347,000
Contingency		$773,000
Total Project Cost:		**$7,342,900**

COST SHARING:

The following is the summary of cost sharing is proposed for this project:

Funding Source	**Cost Sharing**	**Percent of Project**
Local Contribution	$0	0%
WQB or USDA-RD Funding	$7,372,900	100%
Total:	$7,372,900	100%

ESTIMATED ANNUAL COST FOR SEWER SERVICE:

According to the Board' s affordability criteria a sewer user rate should exceed 1.4% of MAGI to be considered for grant funds. Corrine' s 2021 MAGI is $50,700 and which means rates should exceed $ 59.15 per month/ ERU for grant consideration. A static cost model was prepared and included as Attachment 1. The cost model analyzes several possible funding options including funding packages with 20-year or 30-year loans, and principal forgiveness. In addition, funding from U.S. Department of Agriculture - Rural Development (USDA- RD) loan-to-grant ratio of 80%/20% and loan terms of 40-years at 3.25% was analyzed. These scenarios show a sewer rate of $154.39 per month without assistance from the Board or USDA-RD. Additional scenarios in the cost model result in a **monthly sewer user fee of between $ 78 - $139 per month**.

FINANCIAL NEED INDICATOR:

In accordance with Board guidance Division staff calculated a Financial Need Indicator (FNI) in the cost model. Division staff utilized data from the United State Census Bureau (census) website[1] to collect Corrine' s indicator values and State of Utah average indicator values. Table 1 applied the range scoring

[1] https:// data.census. gov/cedsci/

criteria to determine a score for each indicator in relation to the State average value. The calculation of the scores and the financial burden matrix resulted in an FNI of **1.56**. Division staff compared this FNI to the modified % MAGI to calculate the Financial Burden. Based on the Financial Burden Evaluation Policy for the Utah Wastewater Project Assistance Program, the proposal project would result in the community having a Financial Burden of **High.**

EFFORTS TO SECURE FINANCING FROM OTHER SOURCES:

The total cost of the project is $7,372,900. Corrine is requesting $7,372,900 from the Board to fund a construction. Corrine also is in the process of applying for construction assistance and is working on securing project construction funding through the USDA-RD.

DIVISION STAFF COMMENTS AND RECOMMENDATION:

The Division supports the Corrine's request for funding as it believes that the project is essential to help collection and lagoon treatment system improvements.

This is a project introduction, and staff recommendations will be provided at a later Board meeting.

Corinne City - Water Quality Board & 30 Year Loan Static Cost Model
(Attachment 1)

Project Cost		
DWQ Loan Origination Fee & Legal		$73,000
Permitting		$30,000
Planning Advance DWQ		$102,900
Legal & Bonding		$50,000
Engineering - Design & CMS		$1,176,000
Construction	*Lift Station*	$35,000
	Collection System	$4,756,000
	Force Main	$347,000
	Contingency	$773,000
Total Project Cost:		**$7,342,900**
Project Funding		
Requested Funding		**$7,342,900**
Corinna City Fund		
Total Project Cost:		**$ 7,342,900**

Current Customer Base & User Charges	
Initial Total Customer (ERU's)	328
MAGI for Corinne City (2021):	$50,700
Affordable Monthly Rate at 1.4%	$59.15
Impact Fee (per ERU):	$15,200
Current Monthly Fee (per ERU)	$78.00
Existing Debt	$0
Annual O&M	$160,000
Funding Conditions	
Loan Repayment Term:	30
Reserve Funding Period:	10
USDA-RD Funding Conditions	
USDA-RD Interest Rate	3.250%

ESTIMATED COST OF SEWER SERVICE

WQB Principal Forgiveness	WQB Loan	WQB Loan Interest Rate	RD Grant	RD Loan	WQB Loan Debt Service	WQB Loan Reserve	USDA Loan Debt Service	Total Annual Sewer Cost	Monthly Sewer Cost/ ERU	Sewer Cost as % of MAGI	Financial Burden
-	7,342,900	3.30%	0	0	389,302	58,395	0	607,697	154.39	3.65%	High
1,000,000	6,342,900	3.30%	0	0	336,285	50,443	0	546,727	138.90	3.29%	High
2,000,000	5,342,900	3.30%	0	0	283,267	42,490	0	485,757	123.41	2.92%	High
3,000,000	4,342,900	3.30%	0	0	230,250	34,537	0	424,787	107.92	2.55%	Medium
3,600,000	3,742,900	3.30%	0	0	198,439	29,766	0	388,205	98.63	2.33%	Medium
Cofunding WQB and USDA-RD											
-	0	0.00%	1,468,580	5,874,320	0	0	330,636	490,636	124.65	2.95%	High
1,000,000	500,000	0.00%	1,168,580	4,674,320	16,667	2,500	263,094	442,260	112.36	2.66%	High
2,000,000	500,000	0.00%	968,580	3,874,320	16,667	2,500	218,066	397,232	100.92	2.39%	High
3,000,000	500,000	0.00%	768,580	3,074,320	16,667	2,500	173,038	352,205	89.48	2.12%	High
4,000,000	500,000	0.00%	568,580	2,274,320	16,667	2,500	128,010	307,177	78.04	1.85%	Medium

Financial Need Indicator					
Indicators	Local Value	State Value	Score	Weighting Factor	Weighted Score
unemployment rate	2.7%	3.4%	1.65	4.00	6.60
Poverty Rate	6.2%	8.5%	1.00	2.50	2.50
Threshold LQI	$37,125.00	$41,337.00	1.41	2.50	3.53
Population Growth Rate	0.8%	1.9%	3.00	1.00	3.00
Financial Need Indicator (Sum of weighted Scores/10)					**1.56**
2022 5 year ACS Table					**

Table 1 Financial Burden Matrix

	Modified MAGI				
FNI	Below 1.4%	1.4% to 1.75%	1.75% to 2.1%	2.1% to 2.45%	Above 2.45%
Below 1.5	Low	Low	Medium	Medium	High
1.5 to 2.5	Low	Medium	Medium	High	High
Above 2.5	Medium	Medium	High	High	High

WATER QUALITY BOARD
FEASIBILTY REPORT FOR WASTEWATER TREATMENT PROJECT
INTRODUCTION

APPLICANT:	Grantsville City 429 E Main Street Grantsville, UT 84029 Telephone: 435-884-3411
PRESIDING OFFICIAL:	Neil A. Critchlow, Mayor
CONTACT:	Sherrie Broadbent, Finance Director Email: sbroadbent@grantsvilleut.gov
TREASURER/RECORDER:	Crystal Oldwage, Treasurer
CONSULTING ENGINEER:	Matt Laurendau, Project Manager Jones and DeMille Engineering 775 W 1200 N, Ste. 200A Springville, UT 84663 Telephone: 801-692-0219
BOND COUNCIL:	Darcy Stevens Gilmore & Bell
FINANCIAL ADVISOR:	Alex Buxton Telephone: 801-844-7380

APPLICANT'S REQUEST

Grantsville City (Grantsville) is requesting funding from the Water Quality Board (Board) in the amount **$34,230,000** for the construction of a new fine bubble diffuser biological nutrient removal (BNR) treatment facility with tertiary filtration and disinfection.

APPLICANT'S LOCATION

The project is located in Grantsville, Tooele County, on City-owned property near the existing Wastewater Treatment Plant (WWTP).



PROJECT BACKGROUND

In 2022, Grantsville conducted a WWTP Study to evaluate options for upgrading and expanding their WWTP. Grantsville's existing WWTP was determined to be at 95% capacity, with significant upgrades required to meet increasing demand and more stringent effluent nutrient requirements. An alternatives analysis was performed for possible upgrades to or replacement of the existing treatment facility, and the preferred alternative was the construction of a new BNR activated sludge treatment facility with tertiary filtration. In April 2023, Grantsville was awarded a $1,000,000 loan for the design of the new facility.

POPULATION GROWTH

"Growth projections for the next 10-20 years have been analyzed and discussed by multiple parties, and range from 9-10% (Ensign, 2022), to 2.9% by the Governor's Office, to less than 2.4% (K.C. Gardner, 2022). Actual growth based on measured wastewater influent flow for the past 3 years has averaged 5.1 %."[1] Staff used a conservative 3.4% growth rate for impact fee modeling.

Year	Population	ERCs

2024	14,008	4,670
2032	18,302	6,104
2042	25,566	8,524

[1]Source: Grantsville Wastewater Treatment Plant Study, November 2022, AQUA Engineering
ERC = Equivalent Residential Connections

PROJECT NEED

Grantsville is a small community experiencing substantial growth. Grantsville estimates that its population will grow from a current population of approximately 13,547 to over 45,000 in the next 20 years.

The existing WWTP has a design capacity of 1.5 MGD, but is limited in its actual capacity due to effluent nutrient limits. WWTP expansion is required to meet nutrient requirements and accommodate future growth.

The new treatment facility will include new biological treatment processes that will allow treated effluent to meet new permit effluent phosphorus limits. The new plant will also accommodate the anticipated growth in the area and have future expansion capabilities.

ALTERNATIVES EVALUATED

An alternatives analysis was included in the 2022 WWTP Study. The analysis included four primary alternatives: BNR Oxidation Ditch, BNR Fine Bubble Diffusers, BNR Membrane Bioreactor (MBR), and a Parallel Lagoon and BNR Fine Bubble Diffuser system. From the four alternatives, Grantsville determined that the preferred alternative was a fine bubble diffuser activated sludge treatment facility.

PROJECT DESCRIPTION

The project will include the construction of a new 3 MGD (average daily flow), 7 MGD (peak hourly flow) WWTP on city-owned property near the existing treatment facility. Facilities will include a new headworks building, anaerobic basins, anoxic basins, fine bubble diffuser aeration basins, blower equipment building, secondary clarifiers, and tertiary equipment to meet Type I reuse requirements.

COST ESTIMATE

The total estimated construction cost of the project is **$34,633,000**, with a total project cost of **$34,633,000**. The request for funding is for the total project cost. A new cost estimate has been run for the funding application, but was not available to Division of Water Quality (Division) staff. Division staff pulled the 2022 estimate for fine bubble diffusers from the 2022 facilities plan.

Fine Bubble Diffusers				
Item Cost	Construction	Contingency (25%)	Engineering & CMS	Total
Influent Pump Station	$1,267,266	$316,817	$226,298	$1,810,380
Headworks	$3,216,213	$804,053	$574,324	$4,594,590
Aeration Basin Process	$5,016,512	$1,254,128	$895,806	$7,166,445
Secondary Clarifiers	$3,292,289	$823,072	$587,909	$4,703,270
Tertiary Filtration	$1,485,884	$371,471	$265,337	$2,122,692
Disinfection (UV)	$1,429,428	$357,357	$255,255	$2,042,040
Sludge Dewatering	$1,951,950	$487,988	$348,563	$2,788,500

Dredge Old Lagoons	$350,000	$87,500	$62,500	$500,000
		Total 2022 Estimate		**$25,727,917**

PUBLIC PARTICIPATION AND DEMONSTRATION OF PUBLIC SUPPORT

A public hearing was held on December 6, 2023, presenting the new WWTP. There were no comments.

IMPLEMENTATION SCHEDULE

The design phase is currently at 30%. Construction is anticipated to begin in 2025 and completed in 2027.

APPLICANTS CURRENT USER CHARGE

Current residential sewer rates are $30.91 per month, with commercial rates at a base level of $36.26 per month + a $1.95 per 1,000 gal usage fee. Grantsville completed a sewer rate and impact fee study in 2024, which proposed a rate increase to $62.12 per month for residential and $55.47 per month + a $3.83 per 1,000 gal usage fee for commercial.

ALTERNATIVE FUNDING SOURCES

U.S. Department of Agriculture - Rural Development (USDA-RD) was contacted on June 28, and due to population and income level, Grantsville does not qualify for their direct loan or grant program. Grantsville has set aside some funding for the project, which will be used to help with the engineering phase.

Grantsville has a financial adviser from Zion Bank Public Finance. It has been estimated the City could secure funding on the private market at 4%-4.5% with a term of 20 years. This funding would come with additional fees for insurance and bond rating.

DIVISION STAFF COMMENTS

Division staff is supportive of Grantsville's efforts to increase the capacity of their facility to meet anticipated demand due to growth, as well as updating their treatment facility to meet phosphorus effluent requirements. The construction of this treatment facility should meet both of those goals. Grantsville has performed a sewer rate study which, when implemented, will aid in repaying construction funding for this project.

Since Grantsville is over 10,000 in population and not in a producing county, Grantsville currently does not qualify for funding from USDA-RD or CIB.

It is anticipated that the Board is the primary source of funding outside of the private market.

Division staff believes since this would be a new treatment plant the Grantsville engineer could likely demonstrate the useful life of the capital assts majority to be 30 years. Looking at the cost model, if the Board brought a 30 year loan this would be the best funding package for the project. As only partial funding is likely to be available the Board might consider reducing the interest rate and could keep the overall same monthly rate with the combination of private/public funding.

DIVISION STAFF RECOMMENDATION

This is only a project introduction. Division staff recommendations will be made in a later Board meeting.

Grantsville - Water Quality Board
20 Year & 30 Year Loan Static Cost Model

Project Costs

Legal/Bonding	$	30,000
DWQ Loan Origination Fee	$	340,000
Construction, Engineering, Contingency Costs	$	34,263,000
Total Project Cost:	**$**	**34,633,000**

Project Funding

Local Contribution	$	-
Amount to be Funded	**$**	**34,633,000**
WQB Grant	**$**	**-**
Total Project Cost:	**$**	**34,633,000**

Current Customer Base & User Charges

Initial Total Customer (ERU's)	4,516	
MAGI for Grantsville (2020):	$50,000	
Affordable Monthly Rate at 1.4%	$58.33	
Impact Fee (per ERU):	$0	
Current Monthly Fee (per ERU)	$30.00	avg monthly bill
Debt Service	$210,715	
Annual O&M expense	$417,392	

WQB Funding Conditions

Loan Repayment Term:	Varies
Reserve Funding Period:	6

Private Funding Conditions

Loan Repayment Term:	20
Reserve Funding Period:	NA

ESTIMATED COST OF SEWER SERVICE

Principal Forgiveness	WQB Loan	Private Loan Amount	WQB Loan Interest Rate	Private Loan Interest Rate*	WQB Loan Debt Service	WQB Loan Reserve	Private Loan Debt Service	Annual Sewer	Existing Debt Service	Total Annual Sewer Cost	Monthly Sewer Cost/ ERU	Sewer Cost as % of MAGI	Financial Burden
WQB 20 year term loan													
	0	34,633,000		4.50%	0	0	2,662,452	417,392	$210,715	3,290,559	60.72	1.46%	**MEDIUM**
-	34,633,000	0	3.80%	4.50%	2,503,431	625,858	0	417,392	$210,715	3,757,395	69.33	1.66%	**MEDIUM**
-	34,633,000	0	2.00%	4.50%	2,118,041	529,510	0	417,392	$210,715	3,275,658	60.45	1.45%	**MEDIUM**
-	15,000,000	19,633,000	0.80%	4.50%	814,589	203,647	1,509,309	417,392	$210,715	3,155,653	58.23	1.40%	**LOW**
WQB 30 year term loan													
-	34,633,000	0	3.80%	4.50%	1,954,480	488,620	0	417,392	$210,715	3,071,207	56.67	1.36%	**LOW**
-	15,000,000	19,633,000	2.80%	4.50%	745,637	186,409	1,509,309	417,392	$210,715	3,069,463	56.64	1.36%	**LOW**
-	10,000,000	24,633,000	1.90%	4.50%	440,383	110,096	1,893,690	417,392	$210,715	3,072,276	56.69	1.36%	**LOW**

State of Utah

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John K. Mackey
Executive Secretary

WATER QUALITY BOARD
FEASIBILITY REPORT FOR WASTEWATER TREATMENT PROJECT
INTRODUCTION

APPLICANT:	Provo City 351 W Center Provo, UT 84601 Telephone: (801) 852-6726
PRESIDING OFFICIAL	Michelle Kaufusi, Mayor
CONTACT:	Gordon Haight, Public Works Director
TREASURER:	Dan Follett (Treasurer) & Heidi Allman (Recorder)
CONSULTING ENGINEER:	Jenny Calderon, PE, Consulting Engineer Water Works Engineer (801) 785-4105
BOND COUNSEL:	Eric Hunter, Partner Chapman and Cutler (801) 536-1441
FINANCIAL ADVISOR	Brian Baker, Vice President Zions Public Finance (801) 844-7381

APPLICANT'S REQUEST

Provo City (Provo) is requesting funding from the Utah Water Quality Board (Board) in the amount of **$50,530,000** to construct a third bioreactor to expand the plants treatment capacity, collections building, construct an expanded administration building, and to address aging infrastructure and equipment.

APPLICANT'S LOCATION

Provo City is located in Utah County.



PROJECT BACKGROUND

Major upgrades to replace the current 1950's treatment plant are underway. Construction of two membrane bioreactor treatment trains is near completion. The current project was funded by the Board with $92,800,000 in total funding comprised of a 20-year $85,800,000 loan at 0.75% interest and $7,000,000 principal forgiveness. This funding was originally authorized December 4, 2018, with additional funds for cost escalation authorized January 26, 2022. The total contracted construction cost of the current project is approximately $114,300,000.

Most of the upgrades identified in this 2024 application were part of the original project but removed from the design due to costs. The additional work from this project would bring project estimates to $169,400,000.

PROJECT NEED

Provo currently discharges treated effluent to Mill Race Creek which flows to Provo Bay in Utah Lake. Mill Race Creek is listed as Category 5 (not supporting) on the 2024 Integrated Report[1] for *E. coli* and Benthic Macroinvertebrates Bioassessments. Provo Bay is listed in the 2024 Integrated Report as Category 5 (not supporting) for Eutrophication, Harmful Algal Blooms, pH, PCBs in Fish Tissue, Total Ammonia (as N), and Total Phosphorus. The improvement in effluent water quality discharged from this project will significantly improve the water quality discharged from the reclamation facility and have a positive impact on the quality of the water in Provo Bay and Utah Lake.

PROJECT DESCRIPTION

Provo would like to expand the reclamation plant that is currently under construction. The following upgrades are considered high priority upgrades to the existing facilities and equipment to extend the capacity and life of assets. Provo is planning to construct an expanded administration building with a lab and maintenance shop to replace the existing building which is outdated and undersized; a new collection building to store large equipment; and a third bioreactor and equipment to the membrane tank.

[1] https://lf-public.deq.utah.gov/WebLink/DocView.aspx?id=87957&repo=Public&searchid=4009fab5-d508-42a2-9060-0c0af3a14ddb

These upgrades would allow Provo to repurpose their existing aeration basins as surge overflow containment and decommission their final clarifiers, aeration basin pump station, and blower building.

ALTERNATIVES EVALUATED.

Provo developed a Capital Facility Plan that outlined three alternatives: no action; upgrade existing facility; and construction of a new biological treatment facility that discharges to surface waters.

POSITION ON PROJECT PRIORITY LIST

Provo is currently ranked No. **2** of 14 on the FY 2024 Wastewater Treatment Project Priority List (PPL).

POPULATION GROWTH

Based on the 2020 US Census data the 2020 population was 125,931. According to the State's projections Provo has a positive growth rate of 11.9% from 2010 to 2020. This results in a build out population of 176,450 people in 2050.

Year	Population
2020	125,931
2040	157,600
2050	176,450

PUBLIC PARTICIPATION AND DEMONSTRATION OF PUBLIC SUPPORT

Provo has held an informational budget presentation with the Provo City Council. Additionally, Provo provided tours of the facility to the Public Works, Provo City Mayor, Environmental Protection Agency (EPA), the Division of Water Quality (Division), and local news outlets to discuss infrastructure upgrades. The Public Works Director, Finance Director, and Mayor have supported pursuing potential funding options with the Division.

EFFORTS TO SECURE FINANCING FROM OTHER SOURCES

Provo has increased user rates annually since 2014, amounting to a 332% increase to the base rate. They have changed the rate structure to charge by unit and updated sewer impact fees. Provo investigated the potential for Water Infrastructure Finance Innovation Act (WIFIA) funding for the project and applied for funding from the State's $50 million American Rescue Plan Act (ARPA) matching grant program. Provo was unable to secure funds under either of these options.

IMPLEMENTATION SCHEDULE

Construction was initiated in 2019. The new project would begin in 2025 and finish in 2027.

APPLICANT'S CURRENT USER CHARGE

Currently, Provo charges approximately $86 per ERU. According to the Board's criteria of 1.4% MAGI ($34,500 for Provo), a rate of $40.25 per month for wastewater service should be exceeded for grant consideration. Their impact fee is $4,450.26 and there is no hookup fee.

COST ESTIMATE

The total cost of the project is estimated to be $50,530,000.00. A breakdown of these costs follows.

Legal/Bonding	$30,000
Loan Origination Fee	$500,000
Engineering – Design & CMS	$368,000
Wastewater Treatment Plant Upgrades	$44,070,000
Contingency (13.6%)	$5,562,000
Total Project Costs	$50,530,000

Provo has bid the current project with Clean Water State Revolving Fund (CWSRF) requirements from 2018. Unfortunately, these requirements have change for the inclusion of Build America, Buy America Act (BABA) requirement. Due to this change the project could not be funded out of EPA Capitalization Grants as an equivalency project. Thus, fund would have to be drawn from revolved balances or match (aka second round funds). This may cause some limitation on authorization of principal forgiveness funds from the Bipartisan Infrastructure Law (BIL).

COST SHARING

The total cost of project funding for the entire project is $50,000,000.

Funding Source	Cost Sharing	Percent of Project
Amount To Be Financed	$50,000,000	100%

ESTIMATED ANNUAL COST FOR SEWER SERVICE

Division staff developed static cost models (Attachment 1) to evaluate funding by the Board. The cost model analyzes several possible funding options. The resulting Total Annual Sewer Cost is shown for each funding option.

FINANCIAL BURDEN EVALUATION

The cost model shows Provo may qualify for principal forgiveness consideration under the State Affordability Criteria as part of a funding package depending on the interest rate of the loan portion. In accordance with the Board's Financial Burden Evaluation Policy for the Utah Wastewater Project Assistance Program, Division staff utilized data from the United State Census Bureau (census) website (https://data.census.gov/cedsci/) to calculate the Provo's Financial Need Indicator (FNI). The calculated FNI is 2.25. Division staff compared this FNI to the percent modified MAGI in the Financial Burden Matrix and displayed the Financial Burden in Attachment 1. Based on the Financial Burden Evaluation Policy for the Utah Wastewater Project Assistance Program, the community has a Financial Burden of **Medium**.

DIVISION STAFF COMMENTS

This report is a project introduction. Division staff recommendations will be made in a later Board meeting.

ATTACHMENT 1
Provo - Water Quality Board
20 Year Loan Static Cost Model

Project Costs

Legal/Bonding	$	30,000
Loan Origination Fee	$	500,000
Engineering - Design & CMS	$	368,000
Wastewater Treatment Plant	$	44,070,000
	$	-
Wastewater Treatment Plant Contingency (13%)	$	5,562,000
Total Project Cost:	**$**	**50,530,000**

Current Customer Base & User Charges

Initial Total Customer (ERU's)		33,424
MAGI for Provo (2021):		$34,500
Affordable Monthly Rate at 1.4%		$40.25
Impact Fee (per ERU):		$4,450
Current Monthly Fee (per ERU)		$86.00
Debt Service	$	6,286,652.00
Annual O&M expense	$	9,500,000.00

Project Funding

Amount to be Funded	**$**	**50,530,000**
Total Project Cost:	**$**	**50,530,000**

Funding Conditions

Loan Repayment Term:	20
Reserve Funding Period:	6

Private Market Loan

Loan Repayment Term:	20
Reserve Funding Period:	-

ESTIMATED COST OF SEWER SERVICE

Principal Forgiveness	WQB Loan	Private Loan Amount	WQB Loan Interest Rate	Private Loan Interest Rate*	WQB Loan Debt Service	WQB Loan Reserve	Private Loan Debt Service	Annual Sewer	Existing Debt Service	Total Annual Sewer Cost	Monthly Sewer Cost/ ERU	Sewer Cost as % of MAGI	Financial Burden
-	0	50,530,000	3.30%	3.70%	0	0	3,619,989	9,500,000	6,286,652	19,406,641	48.38	1.68%	**MEDIUM**
-	50,530,000	0	3.30%	3.70%	3,491,310	872,828	0	9,500,000	6,286,652	20,150,790	50.24	1.75%	**MEDIUM**
1,000,000	49,530,000	0	3.30%	3.70%	3,422,216	855,554	0	9,500,000	6,286,652	20,064,422	50.02	1.74%	**MEDIUM**
	50,530,000	0	1.30%	3.70%	2,885,457	721,364	0	9,500,000	6,286,652	19,393,473	48.35	1.68%	**MEDIUM**
-	23,000,000	27,530,000	3.30%	3.70%	1,589,158	397,289	1,972,260	9,500,000	6,286,652	19,745,359	49.23	1.71%	**MEDIUM**
-	12,000,000	38,530,000	3.30%	3.70%	829,126	207,281	2,760,304	9,500,000	6,286,652	19,583,364	48.83	1.70%	**MEDIUM**
-	6,000,000	44,530,000	3.30%	3.70%	414,563	103,641	3,190,147	9,500,000	6,286,652	19,495,002	48.61	1.69%	**MEDIUM**
-	500,000	50,030,000	3.30%	3.70%	34,547	8,637	3,584,169	9,500,000	6,286,652	19,414,005	48.40	1.68%	**MEDIUM**
1,000,000	500,000	49,030,000	3.30%	3.70%	34,547	8,637	3,512,529	9,500,000	6,286,652	19,342,364	48.22	1.68%	**MEDIUM**
1,685,800	500,000	48,344,200	3.30%	3.70%	34,547	8,637	3,463,398	9,500,000	6,286,652	19,293,233	48.10	1.67%	**MEDIUM**

*Stated in Application

FNI Calculation

	Local Value	State Value	Score	Weighting Factor	Weighting Score	Table **
Unemployment Rate	3.2%	3.6%	1.80	4	7.20	S2301
Poverty Rate	24.3%	9.1%	3.00	2.5	7.50	S1701
Threshold LQI	$ 26,377	$ 35,445	2.02	2.5	5.05	B19080
Population Growth Rate	2.0%	18.6%	2.78	1	2.78	B01003
Financial Need Indicator (Sum of weighted Scores/10)					**2.25**	

2020 5 year ACS Table

** https://data.census.gov/cedsci/

Financial Burden Matrix

	Modified MAGI				
FNI	Below 1.4%	1.4% to 1.75%	1.75% to 2.1%	2.1% to 2.45	Above 2.45
Below 1.5	Low	Low	Medium	Medium	High
1.5 to 2.5	Low	Medium	Medium	High	High
Above 2.5	Medium	Medium	High	High	High

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Executive Secretary

TO: Water Quality Board

THROUGH: John K. Mackey, P.E.

FROM: George Meados & Ken Hoffman, P.E.

DATE: August 28, 2024

SUBJECT: Sherwood Shores Deauthorization

On December 14, 2022, the Utah 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 the Division of Water Quality (Division);
6. No later than by May 15, 2024 evidence of the formation of the Sherwood Shores Subdivision Body Politic shall be submitted to the Division;
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 the Division.

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 projects.

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

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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

FEASIBLITY 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 Millard County

ATTACHMENT B

George Meados <gmeados@utah.gov>

Sherwood Shores Project (ARPA Funds) - Update

Adam Richins <ARichins@co.millard.ut.us> Fri, May 31, 2024 at 11:24 AM
To: George Meados <gmeados@utah.gov>

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
PO Box 854
71 S 200 W
Delta, UT 84624
arichins@co.millard.ut.us
Phone: 435-864-1406
Fax: 435-864-1404
Cell: 435-590-5113

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John K. Mackey

MEMORANDUM

TO: **Water Quality Board**

THROUGH: **John Mackey, P.E.**

FROM: **Andrew Pompeo, P.E.**

DATE: **Aug 28, 2024**

SUBJECT: **Re-Authorization of Available Southern Utah Reuse ARPA Grant Funds**

Board Motion for Amendment to CICWCD's Grant Agreement

The Central Iron County Water Conservation District (CICWCD) has entered into a Memorandum of Understanding (MOU) with Cedar City to participate in Cedar City's Effluent Filtration project which was reviewed during the April 23, 2024 Board meeting. CICWCD has continuing plans to substitute Type I wastewater for aquifer sourced irrigation water on the Cedar Valley project, but the timing for those plans do not conform to the schedule that ARPA projects require. Therefore, the CICWCD ARPA agreement needs the Scope of Work amended. Staff is supportive of this change.

Staff recommends the following motion: update the Scope of Work in CICWCD's ARPA Grant Agreement.

Staff recommends the following language for the Board Motion:

The Board authorizes the Scope of Work in CICWCD's ARPA Grant agreement be replaced with:

"This project includes the construction of tertiary treatment filters at the Cedar City Wastewater Treatment Plant for the production of wastewater effluent meeting Utah Type I reuse water quality standard."

Authorization of $595,800 in Southern Utah Reuse ARPA Grant Funds

The Water Quality Board has available funds in the amount of $595,800 from the Southern Utah Reuse ARPA Grant Program. To request additional funding, project applicants answered the following questions:

1. Please provide an update on your project status, such as:
    a. Current status of design
    b. Has the project submitted plans and specifications?
    c. Has the project bid?
    d. Is the project under construction?

2. Please provide an update on the estimated cost of the project
    a. Provide the source of the estimated cost

3. Please provide an update on funds available for the project
    a. Provide details of source and amount of each funds

A total of 7 applications were received from 5 applicants: 5 for previously authorized projects, and 1 for a new project. The application for the Intermediary Pump Station Project is in Attachment 1. The original applications are included in Attachment 2. A summary of the applicants is shown here:

Applicant	Project Description	Updated Project Cost	ARPA Funding	Other Grant Funds	% of Project Grant Funded	Plans and Specs?	In Construction?	Project Score
Cedar City	Tertiary Filtration & Disinfection	$5,432,596	$1,354,000	$0	34%	Yes	No	70
CICWCD			$500,000					
WCWCD	Chief Toquer Reservoir	$54,061,468.52	$4,976,000	$11,614,750	31%	Yes	Yes	70
Ash Creek SSD	Confluence Park Treatment Plant Filtration & Disinfection	$3,565,411	$1,688,200	0	47%	Yes	Yes	67
St. George City	Graveyard Wash	$17,000,000	$1,934,000	$13,066,000	88%	Yes	No	50
WCWCD	Dry Wash Reservoir	$16,945,508	$2,369,000	0	14%	No	No	50
WCWCD	TSWS Pump Station	$1,986,375	$0	0	0	No	No	50

Staff Discussion

Staff is supportive of authorizing additional funds to projects where the grant funds would have the most impact in terms of total project cost and water quality benefit.

Cedar City & Central Iron County Water Conservation District – Tertiary Filtration

The main aquifer under Cedar City is being depleted. Cedar City has been warned by the Division of Water Rights that if the aquifer continues to be depleted that water rights for the City will begin being curtailed in 2035. Currently wastewater effluent from Cedar City's WWTP is being land applied to an agricultural area in the North end of the valley as Type II effluent. This has been going on since the initial construction of the wastewater treatment plant. Cedar City is in the process of adding a filtration unit to the back end of their wastewater treatment plant. This is their ARPA funded project. The quality of the effluent must be improved to Type I because Cedar City wants to use the water for irrigation in the City where it needs to be suitable for human contact. The irrigation would displace water coming from the Cedar Valley aquifer that is in a stage of being depleted.

This project not only presents the greatest benefit to water quality but will produce high quality tertiary treated recycled wastewater. The relatively lower cost compared to other projects means the additional funding will have a greater impact on completing the project. In total this project is receiving $1,854,000 in ARPA grant funds. Staff is very supportive of the project and upgrade of a wastewater treatment plant.

WCWCD – Chief Toquer Reservoir

WCWCD is constructing a reservoir to hold Type I treated effluent and surface water from Ash Creek to be used in the Toquerville Secondary Water System (TSWS). Type I treated effluent will be pumped to the TSWS Upper Pond, and then will be pumped to the Chief Toquer Reservoir for winter storage.

The Chief Toquer Reservoir project will store recycled wastewater from the Ash Creek SSD Confluence Park Treatment Plant as well as diverted surface water. This project is receiving $4,976,000 in ARPA grant funds and $11,614,750 in WaterSmart grant funds. Staff is supportive of the project.

Ash Creek SSD - Confluence Park Treatment Plant

Ash Creek Special Service District is in the process of constructing a new treatment plant which will produce Type I treated wastewater for reuse. The Confluence Park Wastewater Treatment Reuse Facility will provide 1.5 million gallons per day of reuse capacity for the communities of Toquerville and La Verkin. This project will take treated effluent from the soon to be constructed treatment plant and feed it through the required disinfection and filtration processes to provide Type I reuse water for the two communities. The project will include the purchase and installation of filtration and disinfection equipment along with the building to house and protect the equipment. Additional information regarding the project is available in the original Board Packet from December 22, 2022 see Attachment 3.

This project not only has the greatest benefit to water quality but brings a great new service to the community and will produce high quality tertiary treated recycled wastewater. The relatively lower cost compared to other projects mean additional funding will have a greater impact on completing the project. In total this project is receiving $1,688,200 in ARPA grant funds. Staff is very supportive of the project and upgrade of a wastewater treatment plant.

WCWCD – Dry Wash Reservoir

WCWCD has been authorized $2,369,000 to construct a reservoir to hold Type I treated effluent and surface runoff to be used in St. George City's secondary irrigation system. Type I treated effluent will be pumped from St. George WRF to the reservoir. The water will be used for irrigation in the town of St. George, Ivins, and Santa Clara.

The Dry Wash Reservoir project will store recycled wastewater from the St George Wastewater Treatment Plant as well as diverted surface water. This project is receiving $2,369,000 in ARPA grant funds. Staff is supportive of the project.

St George – Graveyard Wash Reservoir

St. George has been authorized $1,934,000 to construct the Graveyard Wash Reservoir to store Type I Reuse water from St. George WRF. The reservoir will hold Type I Reuse as well as surface water from rainfall and seasonal runoff. The stored water will be used for irrigation in St. George, Ivins, and Santa Clara.

The Graveyard Wash Reservoir project will store recycled wastewater from the St George WRF as well as diverted surface water. This project is receiving $1,934,000 in ARPA grant funds and $13,066,000 of grant funds a legislative appropriation. The grant program required 30% of local funds. Staff believes the legislative appropriation can be considered by the Board to meet the local contribution requirement. Staff is supportive of the project.

WCWCD – TSWS Pump Station

Washington County Water Conservation District (WCWCD) is planning to build a pump station which will convey Type I treated effluent from the Ash Creek Confluence Park Treatment Plant and secondary irrigation water from the Toquerville Secondary Water System (TSWS) Upper Pond to the Chief Toquer Reservoir. Type I treated effluent will be pumped from Confluence Park to the TSWS Upper Pond, where the water will either flow by gravity to the irrigation system, or will be pumped by the new pump station to Chief Toquer Reservoir. The total estimated cost of the pump station project is $1,986,375.00. This project is receiving $0 in ARPA grant funds.

Staff is supportive of the project. However, if the Board wishes to bring additional funding to Confluence Park Treatment Plant or Chief Toquer Reservoir, Staff would be more supportive of amending those existing ARPA Agreements than creating an additional new project.

Summary of Southern Utah Reuse ARPA Grant Program Funding

Currently the grant program has funded: four planning projects at a total of $415,000 or 3% of total funding, three wastewater treatment plant upgrades at a total of $4,710,200 or 31% of total funding, and three reservoir projects at $9,279,000 or 62% of total funding.

Staff Recommendation

Staff's recommendation is to split the funds equally one of three ways: equally between all five existing projects, equally between all five individual applicants, or equally between the two treatment plant upgrades requesting additional funding. If funds are split equally between individual applicants then staff would recommend directing a WCWCD authorization to the Chief Toquer Reservoir project.

Board Motion for Authorization of the $595,800 in available funds

Staff recommends the following motion: the Board authorize funding in the amount of $XXX,XXX as ARPA grant funding to the _____ to project _____ under the following special conditions:

1. The District must agree to participate annually in the Municipal Wastewater Planning Program (MWPP).

2. The District must develop, commit to adopt, and implement a capital asset management plan that is consistent with EPA's Fiscal Sustainability Plan guidance.