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STATE OF UTAH  
DIVISION OF WATER QUALITY  
DEPARTMENT OF ENVIRONMENTAL QUALITY  
SALT LAKE CITY, UTAH

UTAH POLLUTANT DISCHARGE ELIMINATION SYSTEM (UPDES) PERMITS

**Minor Industrial Permit No. UT0025992**

In compliance with provisions of the Utah *Water Quality Act, Title 19, Chapter 5, Utah Code Annotated ("UCA") 1953, as amended* (the "Act"),

**ALTON COAL DEVELOPMENT, LLC**

is hereby authorized to discharge from the

**COAL HOLLOW PROJECT** facility to receiving waters named

**Lower Robinson Creek, Sink Valley Wash and Kanab Creek**

in accordance with specific limitations, outfalls, and other conditions set forth herein.

**This modified permit shall become effective on October 1st, 2025.**

**This permit expires at midnight on July 31<sup>st</sup>, 2026.**

Signed **this XXth day of MONTH, 2025.**

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John K. Mackey, P.E.  
Director

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**PART I**  
**DISCHARGE PERMIT NO. UT0025992**  
**WASTEWATER**

**I. DISCHARGE LIMITATIONS AND REPORTING REQUIREMENTS**

A. Description of Discharge Points. The authorization to discharge wastewater provided under this part is limited to those outfalls specifically designated below as discharge locations. Discharges at any location not authorized under a UPDES permit are violations of the *Act* and may be subject to penalties under the *Act*. Knowingly discharging from an unauthorized location or failing to report an unauthorized discharge may be subject to criminal penalties as provided under the *Act*.

<u>Outfalls</u>	<u>Description of Discharge Points</u>
001-A	Storm water runoff from sediment pond #1 to Lower Robinson Creek, Latitude 37° 24' 13" N, Longitude 112° 27' 13" W.
001-B	Storm water runoff from sediment pond #1B to Lower Robinson Creek, Latitude 37° 24' 11" N, Longitude 112° 27' 16" W.
002	Sediment pond #2F to an unnamed tributary of Lower Robinson Creek located at Latitude 37° 24' 7.51" N, Longitude 112° 27' 42.16" W.
003	Sediment pond #3 to Lower Robinson Creek located at Latitude 37° 23' 50.31" N, Longitude 112° 27' 52.40" W.
004	Sediment pond #4 to Sink Valley Wash located at Latitude 37° 23' 00.66" N, Longitude 112° 27' 07.21" W.
007	Sediment pond #7 to an unnamed tributary of Kanab Creek located at Latitude 37° 25' 13.95" N, Longitude 112° 28' 8.40" W.

B. Narrative Standard. It shall be unlawful, and a violation of this permit, for the permittee to discharge or place any waste or other substance in such a way as will be or may become offensive such as unnatural deposits, floating debris, oil, scum, or other nuisances such as color, odor or taste, or cause conditions which produce undesirable aquatic life or which produce objectionable tastes in edible aquatic organisms; or result in concentrations or combinations of substances which produce undesirable physiological responses in desirable resident fish, or other desirable aquatic life, or undesirable human health effects, as determined by a bioassay or other tests performed in accordance with standard procedures.

C. Specific Limitations and Self-Monitoring Requirements.

1. Effective immediately, and lasting through the life of this permit, there shall be no acute or chronic toxicity in all Outfalls as defined and determined by test procedures described in *Part VIII* of this permit.
2. Effective immediately and lasting the duration of this permit, the permittee is authorized to discharge from all Outfalls. Such discharges shall be limited and monitored by the permittee as specified below:

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Effluent Characteristics	Effluent Limitations a/				Monitoring Requirements	
	30 Day Average	7 Day Average	Daily Minimum	Daily Maximum	Sample Frequency	Sample Type
Flow, <sup>1</sup> MGD b/	NA	<sup>2</sup> NA	NA	NA	Monthly	Measured
TSS, mg/L	NA	NA	NA	70	Monthly	Grab
Turbidity, NTU c/	NA	NA	NA	Report	Monthly	Grab
Total Iron, mg/L	NA	NA	NA	1.0	Monthly	Grab
Oil & Grease, mg/L d/	NA	NA	NA	10	Monthly	Grab
Oil and Grease, floating solids, visible foam, d/	NA	NA	NA	None	Monthly	Visual
pH, standard units	NA	NA	6.5	9.0	Monthly	Grab
Sanitary Waste e/	NA	NA	NA	None	Monthly	Visual
Total Selenium, mg/L	0.0046	NA	NA	0.020	Monthly	Grab
Boron mg/L	NA	NA	NA	0.75	Monthly	Grab
<sup>1</sup> MGD: million gallons per day				<sup>2</sup> NA: not applicable		

- a/ Samples collected in compliance with the monitoring requirements specified above shall be collected prior to mixing with the receiving water.
- b/ For intermittent discharges, the duration of the discharge shall also be reported.
- c/ Turbidity monitoring shall be conducted monthly whenever possible from all discharging Outfalls to ensure that there is not an increase of more than 10 NTU over the receiving waters, if applicable.
- d/ In addition to monthly sampling for oil and grease, a visual inspection for oil and grease, floating solids, and visible foam shall be performed at least monthly. There shall be no sheen, floating solids, or visible foam in other than trace amounts. If sheen is observed, a sample of the effluent shall be collected immediately thereafter and oil and grease shall not exceed 10 mg/L in concentration
- e/ There shall be no discharge of sanitary waste.

3. Specific Effluent limitations for Total Dissolved Solids. The following effluent limitations will apply to Total Dissolved Solids.

Effluent Characteristics	Effluent Limitations /a				Monitoring Requirements	
	30 Day Average	7 Day Average	Daily Minimum	Daily Maximum	Sample Frequency	Sample Type
TDS lbs/day f/	NA	NA	NA	2,000	Monthly	Grab
Outfalls 001-A, 001-B, 002, 003, 004						
TDS mg/L Irrigation Season (April – November) Non-Irrigation Season (December – March)	NA	NA	NA	1,900 1,700	Monthly	Grab

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Outfall 007						
TDS mg/L Irrigation Season (April – November) Non-Irrigation Season (December – March)	NA	NA	NA	1,400 1,200	Monthly	Grab

- a/ Samples collected in compliance with the monitoring requirements specified above shall be collected prior to mixing with the receiving water.
- f/ A limit of one ton per day (2,000 lbs per day) or 366 tons per year as a sum from all discharge points is required of the permittee, unless a concentration of 500 mg/L or less is achieved at all discharge points. If 500 mg/L or less is achieved at all discharge points, then no loading limit applies. If the permittee cannot achieve the 500 mg/L concentration requirement, or the one ton per day or 366 tons per year loading limit, then the permittee will be required to remove salinity/TDS in excess of one ton per day or 366 tons per year by developing a treatment process, participating in a salinity off-set program, or developing some type of mechanism to remove the salinity/TDS. The selection of a salinity control method, if needed, must be approved by the Director of the Division of Water Quality and implemented within one year of that approval.

4. Special Metals Sampling Requirements for Outfall 007. The following monitoring requirements will apply to Outfall 007.

Effluent Characteristics	Effluent Limitations /a				Monitoring Requirements	
	30 Day Average	7 Day Average	Daily Minimum	Daily Maximum	Sample Frequency	Sample Type
Total Cadmium, mg/L	NA	NA	NA	Report	Monthly	Grab
Total Chromium, mg/L	NA	NA	NA	Report	Monthly	Grab
Total Copper, mg/L	NA	NA	NA	Report	Monthly	Grab
Total Mercury, mg/L	NA	NA	NA	Report	Monthly	Grab
Total Nickel, mg/L	NA	NA	NA	Report	Monthly	Grab
Total Lead, mg/L	NA	NA	NA	Report	Monthly	Grab
Total Silver, mg/L	NA	NA	NA	Report	Monthly	Grab
Total Zinc, mg/L	NA	NA	NA	Report	Monthly	Grab

- a/ Samples collected in compliance with the monitoring requirements specified above shall be collected prior to mixing with the receiving water.

Wet Weather Limitations Any overflow, increase in volume of a discharge or discharge from a bypass system caused by precipitation within a 24-hour period less than or equal to the 10-year, 24-hour precipitation event (or snow-melt of equivalent volume) at surface water runoff pond outfalls only may comply with the following limitation instead of the otherwise applicable limitation (for TSS) contained in the *Part I.C.2:*

Effluent Characteristics	Daily Maximum
Settleable solids (SS), mL/L	0.5

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In addition to the monitoring requirements specified under *Part I.C*, all effluent samples collected during storm water discharge events may also be analyzed for settleable solids. Such analyses shall be conducted by grab samples.

The operator shall have the burden of proof that the increase in discharge was caused by the applicable precipitation event described in *Part I.C.5*. The alternate limitations in *Part I.C.5* shall not apply to treatment systems that treat exclusively underground mine water.

5. Reporting of Wastewater Monitoring Results Monitoring results obtained during the previous month shall be summarized for each month and reported on a Discharge Monitoring Report Form (EPA No. 3320-1)\* or by NetDMR, post-marked or entered into NetDMR no later than the 28<sup>th</sup> day of the month following the completed reporting period. The first report is due on **MONTH X, 2025**. If no discharge occurs during the reporting period, “no discharge” shall be reported. Legible copies of these, and all other reports including whole effluent toxicity (WET) test reports required herein, shall be signed and certified in accordance with the requirements of *Signatory Requirements* (see *Part VII.G*), and submitted by NetDMR, or to the Division of Water Quality at the following address:

Department of Environmental Quality  
Division of Water Quality  
PO Box 144870  
Salt Lake City, Utah 84114-4870

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\* Starting January 1, 2017 monitoring results must be submitted using NetDMR unless the permittee has successfully petitioned for an exception.

**PART II**  
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**PRETREATMENT**

## **II. PRETREATMENT REQUIREMENTS**

- A. Discharge to POTW. Any wastewaters discharged to the sanitary sewer, either as a direct discharge or as a hauled waste, are subject to Federal, State and local pretreatment regulations. Pursuant to Section 307 of The Water Quality Act of 1987, the permittee shall comply with all applicable federal General Pretreatment Regulations promulgated at 40 CFR 403, the State Pretreatment Requirements at UAC R317-8-8, and any specific local discharge limitations developed by the Publicly Owned Treatment Works (POTW) accepting the wastewaters. At a minimum the discharge, into a POTW, must meet the requirements of Part VI of the permit.
- B. Hazardous Waste Notification. The permittee must notify the POTW, the EPA Regional Waste Management Director, and the State hazardous waste authorities, in writing, if they discharge any substance into a POTW which if otherwise disposed of would be considered a hazardous waste under 40 CFR 261. This notification must include the name of the hazardous waste, the EPA hazardous waste number, and the type of discharge (continuous or batch).
- C. General and Specific Prohibitions.
  1. General Prohibitions. The permittee may not introduce into a POTW any pollutant(s) which cause Pass Through or Interference. These general prohibitions and the specific prohibitions in paragraph 2. of this section apply to the introducing pollutants into a POTW whether or not the permittee is subject to other National Pretreatment Standards or any national, State, or local Pretreatment Requirements.
  2. Specific Prohibitions. The following pollutants shall not be introduced into a POTW:
    - a. Pollutants which create a fire or explosion hazard in the publicly owned treatment works (POTW), including, but not limited to, wastestreams with a closed cup flashpoint of less than 140°F (60°C);
    - b. Pollutants, which will cause corrosive structural damage to the POTW, but in no case, discharges with a pH lower than 5.0;
    - c. Solid or viscous pollutants in amounts which will cause obstruction to the flow in the POTW resulting in interference;
    - d. Any pollutant, including oxygen demanding pollutants (BOD, etc.), released in a discharge at such volume or strength as to cause interference in the POTW;
    - e. Heat in amounts, which will inhibit biological activity in the POTW, resulting in interference, but in no case, heat in such quantities that the influent to the sewage treatment works exceeds 104°F (40°C));
    - f. Petroleum oil, nonbiodegradable cutting oil, or products of mineral oil origin in amounts that will cause interference or pass through;
    - g. Pollutants, which result in the presence of toxic gases, vapor, or fumes within the POTW in a quantity that may cause worker health or safety problems;
    - h. Any trucked or hauled pollutants, except at discharge points designated by the POTW; or
    - i. Any pollutant that causes pass through or interference at the POTW.
    - j. Any specific pollutant which exceeds any local limitation established by the POTW.

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D. **Categorical Standards.** In addition to the general and specific limitations expressed in *Part VI*. C. of this section, applicable National Categorical Pretreatment Standards must be met by all industrial users discharging into a POTW. These standards are published in the federal regulations at *40 CFR 405 through 471*.

E. **Definitions.** For this section the following definitions shall apply:

1. *Indirect Discharge* means the introduction of pollutants into a publicly-owned treatment works (POTW) from any non-domestic source regulated under section 307 (b), (c) or (d) of the CWA.
2. *Interference* means a discharge which, alone or in conjunction with a discharge or discharges from other sources, both:
  - a. Inhibits or disrupts the POTW, its treatment processes or operations, or its sludge processes, use or disposal; and
  - b. Therefore is a cause of a violation of any requirement of the POTW's NPDES permit (including an increase in the magnitude or duration of a violation) or of the prevention of sewage sludge use or disposal in compliance with the following statutory provisions and regulations or permits issued thereunder (or more stringent State or local regulations): Section 405 of the Clean Water Act, the Solid Waste Disposal Act (SWDA) (including title II, more commonly referred to as the Resource Conservation and Recovery Act (RCRA), and including State regulations contained in any State sludge management plan prepared pursuant to subtitle D of the SWDA), the Clean Air Act, the Toxic Substances Control Act, and the Marine Protection, Research and Sanctuaries Act.
3. *Pass Through* means a Discharge which exits the POTW into waters of the United States in quantities or concentrations which, alone or in conjunction with a discharge or discharges from other sources, is a cause of a violation of any requirement of the POTW's NPDES permit (including an increase in the magnitude or duration of a violation).
4. *Publicly Owned Treatment Works or POTW* means a treatment works as defined by section 212 of the CWA, which is owned by a State or municipality (as defined by section 502(4) of the CWA). This definition includes any devices and systems used in the storage, treatment, recycling and reclamation of municipal sewage or industrial wastes of a liquid nature. It also includes sewers, pipes and other conveyances only if they convey wastewater to a POTW Treatment Plant. The term also means the municipality as defined in section 502(4) of the CWA, which has jurisdiction over the Indirect Discharges to and the discharges from such a treatment works.
5. *Significant industrial user (SIU)* is defined as an industrial user discharging to a POTW that satisfies any of the following:
  - a. Has a process wastewater flow of 25,000 gallons or more per average work day;
  - b. Has a flow greater than five percent of the flow carried by the municipal system receiving the waste;
  - c. Is subject to Categorical Pretreatment Standards, or
  - d. Has a reasonable potential for adversely affecting the POTW's operation or for violating any pretreatment standard or requirement.
6. *User or Industrial User (IU)* means a source of Indirect Discharge.

**III. BIOSOLIDS REQUIREMENTS**

A. Biosolids Treatment and Disposal. The State of Utah has adopted the *40 CFR 503* federal regulations for the disposal of sewage sludge (biosolids) by reference. However, this facility does not receive, generate, treat or dispose of biosolids. Therefore *40 CFR 503* does not apply.

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**PART IV**  
**STORM WATER REQUIREMENTS**

**IV. STORM WATER REQUIREMENTS.**

A. Industrial Storm Water Permit. Based on the type of industrial activities occurring at the facility, the permittee is required to maintain separate coverage or an appropriate exclusion under the Multi-Sector General Permit (MSGP) for Storm Water Discharges Associated with Industrial Activities (UTR000000). MSGP requirements only apply to storm water discharges from coal mining-related areas (SIC Major Group 12) if they are **not** subject to effluent limitations guidelines under 40 CFR Part 434. Only storm water discharges that are not included in the individual permit (Outfalls 001-007) are required to have additional MSGP requirements. If all storm water discharges are permitted in the individual permit, then no MSGP is required.

## V. MONITORING, RECORDING & GENERAL REPORTING REQUIREMENTS

- A. Representative Sampling. Samples taken in compliance with the monitoring requirements established under *Part I* shall be collected from the effluent stream prior to discharge into the receiving waters. Samples and measurements shall be representative of the volume and nature of the monitored discharge. Samples of biosolids shall be collected at a location representative of the quality of biosolids immediately prior to the use-disposal practice.
- B. Monitoring Procedures. Monitoring must be conducted according to test procedures approved under *Utah Administrative Code ("UAC") R317-2-10 and 40CFR Part 503* utilizing sufficiently sensitive test methods, unless other test procedures have been specified in this permit.
- C. Penalties for Tampering. The *Act* provides that any person who falsifies, tampers with, or knowingly renders inaccurate, any monitoring device or method required to be maintained under this permit shall, upon conviction, be punished by a fine of not more than \$10,000 per violation, or by imprisonment for not more than six months per violation, or by both.
- D. Compliance Schedules. Reports of compliance or noncompliance with, or any progress reports on, interim and final requirements contained in any Compliance Schedule of this permit shall be submitted no later than 14 days following each schedule date.
- E. Additional Monitoring by the Permittee. If the permittee monitors any parameter more frequently than required by this permit, using test procedures approved under *UAC R317-2-10* and *40 CFR 503* or as specified in this permit, the results of this monitoring shall be included in the calculation and reporting of the data submitted in the DMR or the Biosolids Report Form. Such increased frequency shall also be indicated. Only those parameters required by the permit need to be reported.
- F. Records Contents. Records of monitoring information shall include:
  - 1. The date, exact place, and time of sampling or measurements;
  - 2. The individual(s) who performed the sampling or measurements;
  - 3. The date(s) and time(s) analyses were performed;
  - 4. The individual(s) who performed the analyses;
  - 5. The analytical techniques or methods used; and,
  - 6. The results of such analyses.
- G. Retention of Records. The permittee shall retain records of all monitoring information, including all calibration and maintenance records and all original strip chart recordings for continuous monitoring instrumentation, copies of all reports required by this permit, and records of all data used to complete the application for this permit, for a period of at least five years from the date of the sample, measurement, report or application. This period may be extended by request of the Director at any time. A copy of this UPDES permit must be maintained on site during the duration of activity at the permitted location
- H. Twenty-four Hour Notice of Noncompliance Reporting.
  - 1. The permittee shall (orally) report any noncompliance including transportation accidents, spills, and uncontrolled runoff from biosolids transfer or land application sites which may seriously endanger health or environment, as soon as possible, but no later than twenty-four (24) hours from the time the permittee first became aware of circumstances. The report shall be made to the Division of Water Quality, (801) 536-4300, or 24-hour answering service (801) 536-4123.

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2. The following occurrences of noncompliance shall be reported by telephone (801) 536-4300 as soon as possible but no later than 24 hours from the time the permittee becomes aware of the circumstances:
  - a. Any noncompliance which may endanger health or the environment;
  - b. Any unanticipated bypass, which exceeds any effluent limitation in the permit (See *Part VI.G, Bypass of Treatment Facilities.*);
  - c. Any upset which exceeds any effluent limitation in the permit (See *Part VI.H, Upset Conditions.*);
  - d. Violation of a daily discharge limitation for any of the pollutants listed in the permit; or,
  - e. Violation of any of the Table 3 metals limits, the pathogen limits, the vector attraction reduction limits or the management practices for biosolids that have been sold or given away.
3. A written submission shall also be provided within five days of the time that the permittee becomes aware of the circumstances. The written submission shall contain:
  - a. A description of the noncompliance and its cause;
  - b. The period of noncompliance, including exact dates and times;
  - c. The estimated time noncompliance is expected to continue if it has not been corrected;
  - d. Steps taken or planned to reduce, eliminate, and prevent reoccurrence of the noncompliance; and,
  - e. Steps taken, if any, to mitigate the adverse impacts on the environment and human health during the noncompliance period.
4. The Director may waive the written report on a case-by-case basis if the oral report has been received within 24 hours by the Division of Water Quality, (801) 536-4300.
5. Reports shall be submitted to the addresses in *Part I.D, Reporting of Monitoring Results.*

I. Other Noncompliance Reporting. Instances of noncompliance not required to be reported within 24 hours shall be reported at the time that monitoring reports for *Part I.D* are submitted. The reports shall contain the information listed in *Part V.H.3*

J. Inspection and Entry The permittee shall allow the Director, or an authorized representative, upon the presentation of credentials and other documents as may be required by law, to:

1. Enter upon the permittee's premises where a regulated facility or activity is located or conducted, or where records must be kept under the conditions of the permit;
2. Have access to and copy, at reasonable times, any records that must be kept under the conditions of this permit;
3. Inspect at reasonable times any facilities, equipment (including monitoring and control equipment), practices, or operations regulated or required under this permit, including but

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not limited to, biosolids treatment, collection, storage facilities or area, transport vehicles and containers, and land application sites;

4. Sample or monitor at reasonable times, for the purpose of assuring permit compliance or as otherwise authorized by the *Act*, any substances or parameters at any location, including, but not limited to, digested biosolids before dewatering, dewatered biosolids, biosolids transfer or staging areas, any ground or surface waters at the land application sites or biosolids, soils, or vegetation on the land application sites; and,
5. The permittee shall make the necessary arrangements with the landowner or leaseholder to obtain permission or clearance, the Director, or authorized representative, upon the presentation of credentials and other documents as may be required by law, will be permitted to enter without delay for the purposes of performing their responsibilities.

## **VI. COMPLIANCE RESPONSIBILITIES**

- A. **Duty to Comply.** The permittee must comply with all conditions of this permit. Any permit noncompliance constitutes a violation of the Act and is grounds for enforcement action; for permit termination, revocation and reissuance, or modification; or for denial of a permit renewal application. The permittee shall give advance notice to the Director of any planned changes in the permitted facility or activity, which may result in noncompliance with permit requirements.
- B. **Penalties for Violations of Permit Conditions.** The *Act* provides that any person who violates a permit condition implementing provisions of the *Act* is subject to a civil penalty not to exceed \$10,000 per day of such violation. Any person who willfully or negligently violates permit conditions or the *Act* is subject to a fine not exceeding \$25,000 per day of violation. Any person convicted under *UCA 19-5-115(2)* a second time shall be punished by a fine not exceeding \$50,000 per day. Except as provided at *Part VI.G, Bypass of Treatment Facilities* and *Part VI.H, Upset Conditions*, nothing in this permit shall be construed to relieve the permittee of the civil or criminal penalties for noncompliance.
- C. **Need to Halt or Reduce Activity not a Defense.** It shall not be a defense for a permittee in an enforcement action that it would have been necessary to halt or reduce the permitted activity in order to maintain compliance with the conditions of this permit.
- D. **Duty to Mitigate.** The permittee shall take all reasonable steps to minimize or prevent any discharge in violation of this permit, which has a reasonable likelihood of adversely affecting human health or the environment. The permittee shall also take all reasonable steps to minimize or prevent any land application in violation of this permit.
- E. **Proper Operation and Maintenance.** The permittee shall at all times properly operate and maintain all facilities and systems of treatment and control (and related appurtenances) which are installed or used by the permittee to achieve compliance with the conditions of this permit. Proper operation and maintenance also includes adequate laboratory controls and quality assurance procedures. This provision requires the operation of back-up or auxiliary facilities or similar systems, which are installed by a permittee only when the operation is necessary to achieve compliance with the conditions of the permit.
- F. **Removed Substances.** Collected screening, grit, solids, sludge, or other pollutants removed in the course of treatment shall be disposed of in such a manner so as to prevent any pollutant from entering any waters of the state or creating a health hazard. Sludge/digester supernatant and filter backwash shall not directly enter either the final effluent or waters of the state by any other direct route.
- G. **Bypass of Treatment Facilities.**
  1. **Bypass Not Exceeding Limitations.** The permittee may allow any bypass to occur which does not cause effluent limitations to be exceeded, but only if it also is for essential maintenance to assure efficient operation. These bypasses are not subject to paragraph 2 and 3 of this section.
  2. **Prohibition of Bypass.**
    - a. Bypass is prohibited, and the Director may take enforcement action against a permittee for bypass, unless:

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- (1) Bypass was unavoidable to prevent loss of human life, personal injury, or severe property damage;
- (2) There were no feasible alternatives to bypass, such as the use of auxiliary treatment facilities, retention of untreated wastes, or maintenance during normal periods of equipment downtime. This condition is not satisfied if adequate backup equipment should have been installed in the exercise of reasonable engineering judgement to prevent a bypass which occurred during normal periods of equipment downtime or preventive maintenance, and
- (3) The permittee submitted notices as required under *section VI.G.3.*

b. The Director may approve an anticipated bypass, after considering its adverse effects, if the Director determines that it will meet the three conditions listed in *sections VI.G.2.a (1), (2) and (3).*

3. Notice.

- a. *Anticipated bypass.* Except as provided above in *section VI.G.2* and below in *section VI.G.3.b*, if the permittee knows in advance of the need for a bypass, it shall submit prior notice, at least ninety days before the date of bypass. The prior notice shall include the following unless otherwise waived by the Director:
  - (1) Evaluation of alternative to bypass, including cost-benefit analysis containing an assessment of anticipated resource damages;
  - (2) A specific bypass plan describing the work to be performed including scheduled dates and times. The permittee must notify the Director in advance of any changes to the bypass schedule;
  - (3) Description of specific measures to be taken to minimize environmental and public health impacts;
  - (4) A notification plan sufficient to alert all downstream users, the public and others reasonably expected to be impacted by the bypass;
  - (5) A water quality assessment plan to include sufficient monitoring of the receiving water before, during and following the bypass to enable evaluation of public health risks and environmental impacts; and,
  - (6) Any additional information requested by the Director.
- b. *Emergency Bypass.* Where ninety days advance notice is not possible, the permittee must notify the Director, and the Director of the Department of Natural Resources, as soon as it becomes aware of the need to bypass and provide to the Director the information in *section VI.G.3.a.(1) through (6)* to the extent practicable.
- c. *Unanticipated bypass.* The permittee shall submit notice of an unanticipated bypass to the Director as required under *Part IV.H, Twenty Four Hour Reporting.* The permittee shall also immediately notify the Director of the Department of Natural Resources, the public and downstream users and shall implement measures to minimize impacts to public health and environment to the extent practicable.

**H. Upset Conditions.**

1. **Effect of an upset.** An upset constitutes an affirmative defense to an action brought for noncompliance with technology-based permit effluent limitations if the requirements of paragraph 2 of this section are met. Director's administrative determination regarding a claim of upset cannot be judiciously challenged by the permittee until such time as an action is initiated for noncompliance.
2. Conditions necessary for a demonstration of upset. A permittee who wishes to establish the affirmative defense of upset shall demonstrate, through properly signed, contemporaneous operating logs, or other relevant evidence that:
  - a. An upset occurred and that the permittee can identify the cause(s) of the upset;
  - b. The permitted facility was at the time being properly operated;
  - c. The permittee submitted notice of the upset as required under *Part V.H, Twenty-four Hour Notice of Noncompliance Reporting*; and,
  - d. The permittee complied with any remedial measures required under *Part VI.D, Duty to Mitigate*.
3. Burden of proof. In any enforcement proceeding, the permittee seeking to establish the occurrence of an upset has the burden of proof.

I. **Toxic Pollutants.** The permittee shall comply with effluent standards or prohibitions established under Section 307(a) of *The Water Quality Act of 1987* for toxic pollutants within the time provided in the regulations that establish those standards or prohibitions, even if the permit has not yet been modified to incorporate the requirement.

J. **Changes in Discharge of Toxic Substances.** Notification shall be provided to the Executive Secretary as soon as the permittee knows of, or has reason to believe:

1. That any activity has occurred or will occur which would result in the discharge, on a routine or frequent basis, of any toxic pollutant which is not limited in the permit, if that discharge will exceed the highest of the following "notification levels":
  - a. One hundred micrograms per liter (100 ug/L);
  - b. Two hundred micrograms per liter (200 ug/L) for acrolein and acrylonitrile; five hundred micrograms per liter (500 ug/L) for 2,4-dinitrophenol and for 2-methyl-4, 6-dinitrophenol; and one milligram per liter (1 mg/L) for antimony;
  - c. Five (5) times the maximum concentration value reported for that pollutant in the permit application in accordance with *UAC R317-8-3.4(7)* or (10); or,
  - d. The level established by the Executive Secretary in accordance with *UAC R317-8-4.2(6)*.
2. That any activity has occurred or will occur which would result in any discharge, on a non-routine or infrequent basis, of a toxic pollutant which is not limited in the permit, if that discharge will exceed the highest of the following "notification levels":

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- a. Five hundred micrograms per liter (500 ug/L);
- b. One milligram per liter (1 mg/L) for antimony;
- c. Ten (10) times the maximum concentration value reported for that pollutant in the permit application in accordance with *UAC R317-8-3.4(9)*; or,
- d. The level established by the Executive Secretary in accordance with *UAC R317-8-4.2(6)*.

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## **VII. GENERAL REQUIREMENTS**

- A. Planned Changes. The permittee shall give notice to the Director as soon as possible of any planned physical alterations or additions to the permitted facility. Notice is required only when the alteration or addition could significantly change the nature or increase the quantity of parameters discharged or pollutant sold or given away. This notification applies to pollutants, which are not subject to effluent limitations in the permit. In addition, if there are any planned substantial changes to the permittee's existing sludge facilities or their manner of operation or to current sludge management practices of storage and disposal, the permittee shall give notice to the Director of any planned changes at least 30 days prior to their implementation.
- B. Anticipated Noncompliance. The permittee shall give advance notice to the Director of any planned changes in the permitted facility or activity, which may result in noncompliance with permit requirements.
- C. Permit Actions. This permit may be modified, revoked and reissued, or terminated for cause. The filing of a request by the permittee for a permit modification, revocation and reissuance, or termination, or a notification of planned changes or anticipated noncompliance, does not stay any permit condition.
- D. Duty to Reapply. If the permittee wishes to continue an activity regulated by this permit after the expiration date of this permit, the permittee shall apply for and obtain a new permit. The application shall be submitted at least 180 days before the expiration date of this permit.
- E. Duty to Provide Information. The permittee shall furnish to the Director, within a reasonable time, any information which the Director may request to determine whether cause exists for modifying, revoking and reissuing, or terminating this permit, or to determine compliance with this permit. The permittee shall also furnish to the Director, upon request, copies of records required to be kept by this permit.
- F. Other Information. When the permittee becomes aware that it failed to submit any relevant facts in a permit application, or submitted incorrect information in a permit application or any report to the Director, it shall promptly submit such facts or information.
- G. Signatory Requirements. All applications, reports or information submitted to the Director shall be signed and certified.
  - 1. All permit applications shall be signed by either a principal executive officer or ranking elected official.
  - 2. All reports required by the permit and other information requested by the Director shall be signed by a person described above or by a duly authorized representative of that person. A person is a duly authorized representative only if:
    - a. The authorization is made in writing by a person described above and submitted to the Director, and,
    - b. The authorization specifies either an individual or a position having responsibility for the overall operation of the regulated facility, such as the position of plant manager, superintendent, position of equivalent responsibility, or an individual or position having overall responsibility for environmental matters. A duly authorized

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representative may thus be either a named individual or any individual occupying a named position.

3. Changes to authorization. If an authorization under *paragraph VII.G.2* is no longer accurate because a different individual or position has responsibility for the overall operation of the facility, a new authorization satisfying the requirements of *paragraph VII.G.2.* must be submitted to the Director prior to or together with any reports, information, or applications to be signed by an authorized representative.
4. Certification. Any person signing a document under this section shall make the following certification:

"I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

- H. Penalties for Falsification of Reports. The *Act* provides that any person who knowingly makes any false statement, representation, or certification in any record or other document submitted or required to be maintained under this permit, including monitoring reports or reports of compliance or noncompliance shall, upon conviction be punished by a fine of not more than \$10,000.00 per violation, or by imprisonment for not more than six months per violation, or by both.
- I. Availability of Reports. Except for data determined to be confidential under *UAC R317-8-3.2*, all reports prepared in accordance with the terms of this permit shall be available for public inspection at the office of Director. As required by the *Act*, permit applications, permits and effluent data shall not be considered confidential.
- J. Oil and Hazardous Substance Liability. Nothing in this permit shall be construed to preclude the permittee of any legal action or relieve the permittee from any responsibilities, liabilities, or penalties to which the permittee is or may be subject under the *Act*.
- K. Property Rights. The issuance of this permit does not convey any property rights of any sort, or any exclusive privileges, nor does it authorize any injury to private property or any invasion of personal rights, nor any infringement of federal, state or local laws or regulations.
- L. Severability. The provisions of this permit are severable, and if any provisions of this permit, or the application of any provision of this permit to any circumstance, is held invalid, the application of such provision to other circumstances, and the remainder of this permit, shall not be affected thereby.
- M. Transfers. This permit may be automatically transferred to a new permittee if:
  1. The current permittee notifies the Director at least 20 days in advance of the proposed transfer date;

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2. The notice includes a written agreement between the existing and new permittee's containing a specific date for transfer of permit responsibility, coverage, and liability between them; and,
3. The Director does not notify the existing permittee and the proposed new permittee of his or her intent to modify, or revoke and reissue the permit. If this notice is not received, the transfer is effective on the date specified in the agreement mentioned in paragraph 2 above.

N. **State or Federal Laws.** Nothing in this permit shall be construed to preclude the institution of any legal action or relieve the permittee from any responsibilities, liabilities, or penalties established pursuant to any applicable state law or regulation under authority preserved by *UCA 19-5-117* and *Section 510* of the *Act* or any applicable Federal or State transportation regulations, such as but not limited to the Department of Transportation regulations.

O. **Water Quality - Reopener Provision.** This permit may be reopened and modified (following proper administrative procedures) to include the appropriate effluent limitations and compliance schedule, if necessary, if one or more of the following events occurs:

1. Water Quality Standards for the receiving water(s) to which the permittee discharges are modified in such a manner as to require different effluent limits than contained in this permit.
2. A final wasteload allocation is developed and approved by the State and/or EPA for incorporation in this permit.
3. Revisions to the current CWA § 208 areawide treatment management plans or promulgations/revisions to TMDLs (40 CFR 130.7) approved by the EPA and adopted by DWQ which calls for different effluent limitations than contained in this permit.

P. **Biosolids – Reopener Provision.** This permit may be reopened and modified (following proper administrative procedures) to include the appropriate biosolids limitations (and compliance schedule, if necessary), management practices, other appropriate requirements to protect public health and the environment, or if there have been substantial changes (or such changes are planned) in biosolids use or disposal practices; applicable management practices or numerical limitations for pollutants in biosolids have been promulgated which are more stringent than the requirements in this permit; and/or it has been determined that the permittees biosolids use or land application practices do not comply with existing applicable state or federal regulations.

Q. **Toxicity Limitation - Reopener Provision.** This permit may be reopened and modified (following proper administrative procedures) to include WET testing, a WET limitation, a compliance schedule, a compliance date, additional or modified numerical limitations, or any other conditions related to the control of toxicants if toxicity is detected during the life of this permit.

R. **Storm Water-Reopener Provision.** At any time during the duration (life) of this permit, this permit may be reopened and modified (following proper administrative procedures) as per *UAC R317.8*, to include, any applicable storm water provisions and requirements, a storm water pollution prevention plan, a compliance schedule, a compliance date, monitoring and/or reporting requirements, or any other conditions related to the control of storm water discharges to "waters-of-State".

## **VIII. DEFINITIONS**

### **A. Wastewater.**

1. The "7-day (and weekly) average", other than for *E. coli* bacteria, fecal coliform bacteria, and total coliform bacteria, is the arithmetic average of all samples collected during a consecutive 7-day period or calendar week, whichever is applicable. Geometric means shall be calculated for *E. coli* bacteria, fecal coliform bacteria, and total coliform bacteria. The 7-day and weekly averages are applicable only to those effluent characteristics for which there are 7-day average effluent limitations. The calendar week, which begins on Sunday and ends on Saturday, shall be used for purposes of reporting self-monitoring data on discharge monitoring report forms. Weekly averages shall be calculated for all calendar weeks with Saturdays in the month. If a calendar week overlaps two months (i.e., the Sunday is in one month and the Saturday in the following month), the weekly average calculated for that calendar week shall be included in the data for the month that contains Saturday.
2. The "30-day (and monthly) average," other than for *E. coli* bacteria, fecal coliform bacteria and total coliform bacteria, is the arithmetic average of all samples collected during a consecutive 30-day period or calendar month, whichever is applicable. Geometric means shall be calculated for *E. coli* bacteria, fecal coliform bacteria and total coliform bacteria. The calendar month shall be used for purposes of reporting self-monitoring data on discharge monitoring report forms.
3. "Act," means the *Utah Water Quality Act*.
4. "Acute toxicity" occurs when 50 percent or more mortality is observed for either test species at any effluent concentration (lethal concentration or "LC<sub>50</sub>").
5. "Bypass," means the diversion of waste streams from any portion of a treatment facility.
6. "Chronic toxicity" occurs when the IC<sub>25</sub> < 100% effluent. The 100% effluent is the concentration of the effluent in the receiving water, at the end of the mixing zone expressed as per cent effluent.
7. "IC<sub>25</sub>" is the concentration of toxicant (given in % effluent) that would cause a 25% reduction in mean young per female, or a 25% reduction in overall growth for the test population.
8. "Composite Samples" shall be flow proportioned. The composite sample shall, as a minimum, contain at least four (4) samples collected over the compositing period. Unless otherwise specified, the time between the collection of the first sample and the last sample shall not be less than six (6) hours nor more than 24 hours. Acceptable methods for preparation of composite samples are as follows:
  - a. Constant time interval between samples, sample volume proportional to flow rate at time of sampling;
  - b. Constant time interval between samples, sample volume proportional to total flow (volume) since last sample. For the first sample, the flow rate at the time the sample was collected may be used;

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- c. Constant sample volume, time interval between samples proportional to flow (i.e., sample taken every "X" gallons of flow); and,
- d. Continuous sample volume, with sample collection rate proportional to flow rate.

9. "CWA" means *The Federal Water Pollution Control Act*, as amended, by *The Clean Water Act of 1987*.
10. "Daily Maximum" (Daily Max.) is the maximum value allowable in any single sample or instantaneous measurement.
11. "EPA," means the United States Environmental Protection Agency.
12. "Director," means Director of the Division of Water Quality.
13. A "grab" sample, for monitoring requirements, is defined as a single "dip and take" sample collected at a representative point in the discharge stream.
14. An "instantaneous" measurement, for monitoring requirements, is defined as a single reading, observation, or measurement.
15. "Severe Property Damage," means substantial physical damage to property, damage to the treatment facilities which causes them to become inoperable, or substantial and permanent loss of natural resources which can reasonably be expected to occur in the absence of a bypass. Severe property damage does not mean economic loss caused by delays in production.
16. "Upset," means an exceptional incident in which there is unintentional and temporary noncompliance with technology-based permit effluent limitations because of factors beyond the reasonable control of the permittee. An upset does not include noncompliance to the extent caused by operational error, improperly designed treatment facilities, inadequate treatment facilities, lack of preventative maintenance, or careless or improper operation.