

STATE OF UTAH
DEPARTMENT OF ENVIRONMENTAL QUALITY
DIVISION OF WATER QUALITY
P.O. BOX 144870
SALT LAKE CITY, UTAH 84114-4870

Ground Water Discharge Permit
Permit No. UGW010013

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

Phibro Biodigester, LLC
600 Summer Street, Suite 205
Stamford, Ct 06901

hereafter, referred to as the Permittee, is granted a Ground Water Discharge Permit for the operation of the Blue Mountain Biogas facility located on South Pioche Road in Beaver County, Utah. The digesters are located in Section 27, Township 30 South, Range 13 West, Salt Lake Base & Meridian.

This permit is based on representations made by the Permittee and other information contained in the administrative record. It is the responsibility of the Permittee to read and understand all provisions of this permit.

The facilities described herein shall be operated in accordance with the conditions set forth in the permit and the Utah Administrative Rules for Ground Water Quality Protection (Utah Admin. Code R317-6).

This permit shall become effective on _____, 2025.

This permit shall expire at midnight on _____, 2025.

Signed this day of _____, 2025.

John K. Mackey, P.E.
Director

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PART I SPECIFIC CONDITIONS

A. GROUND WATER CLASSIFICATION

Ground water class as defined in Utah Admin. Code R317-6-6.3 is generally Class IA Pristine ground water based on upgradient monitoring wells operated by Phibro Biodigester, LLC (“Phibro”).

B. BACKGROUND GROUND WATER QUALITY

Background ground water quality data has been determined from two upgradient monitoring wells associated with the Blue Mountain Biogas Facility. Table 1 provides an arithmetic mean of background ground water quality data collected by Phibro from years 2013 through 2016. Background water quality concentrations were calculated using the definition for “Background Concentration” listed in Utah Admin. Code R317-6-6.1.

Table 1: Background Ground Water Quality

Parameter	(mg/l)
pH (units)	7.9
Total Dissolved Solids	362
Chloride	69
Nitrate as N	0.30
Bicarbonate	250
Sulfate	77
Ammonia	<0.10
Bromide	0.1

C. GROUND WATER PROTECTION LEVELS

Table 2 provides ground water protection levels for compliance monitoring wells.

Table 2: Ground Water Protection Levels

Parameter	Protection Levels (mg/l)
pH (units)	6.5 - 8.5
Total Dissolved Solids	500
Chloride	100
Bicarbonate (HCO ₃)	300
Nitrate + nitrite (as N)	2.5
Ammonia as N	7.5 ^(a)
Sulfate	100
Bromide	1.0

(a) Equals 0.25 times the EPA Lifetime Health Advisory.

D. BEST AVAILABLE TECHNOLOGY (BAT) STANDARD

1. Best Available Technology

The administration of this permit is based on the use of best available technology (BAT), in accordance with the requirements of Utah Admin. Code R317-6-6.4. The digesters, equalization basins, and piping are a closed system. The facility generates no waste of its own. Only manure, animal feed and water from the hog-raising operations may be placed in the digesters for biogas harvesting, unless authorized by the Director of the Division of

Water Quality (“Division”).

Land application of wastes is not allowed. Any excess wastewater that cannot be processed by the Blue Mountain Biogas Facility will be returned to the originating farm lagoons.

2. Performance Standard for Best Available Technology

Compliance with the requirements for use of BAT has been demonstrated, given that construction of the digester system was completed in accordance with the Construction Permit for the Blue Mountain Biogas Facility. The digesters and waste equalization basins are lined with an 80-millimeter HDPE flexible membrane liner. The dimensions, maximum operating depth, free board, liquid contact area, and operating volume of each primary and secondary containment basin for each farm site are specified in the engineering design plans and specifications.

Liner integrity was evaluated prior to facility operation with an approved construction quality assurance/quality control (CQA/QC) plan and the associated Construction Certification As-Built Report, as required by the Construction Permit issued in 2011.

The liner integrity must be maintained. Deterioration of materials or any other situation that prevents the liner from functioning according to the approved design shall constitute non-compliance with this permit. Synthetic liners must remain in contact with the prepared soil base of the basins and digesters. Adequate slack and ballast will also be provided if necessary, to minimize stresses and suspensions of the liner at the toe of the dikes due to variations in ambient temperature and incident solar radiation. Any large suspensions or billowing of the synthetic liner is considered a failure of this performance standard. The formation of bulges or “whales” in the liner when the basins or digesters contain water is an indication of a leak in the liner. When whales form in the liner, the liner must be repaired in an expeditious manner. Impact to the underlying soils must be assessed in conformance with Phibro staff’s routine inspection procedures.

E. BEST MANAGEMENT PRACTICES

1. The Permittee shall operate the facility such that the ground water quality standards (Utah Admin. Code R317-6-2) and ground water protection levels in Table 2 are not exceeded in the immediate unconfined aquifer underlying the site, or other aquifers that may be impacted by facility operations. Utah ground water regulations also contain standards for contaminants such as metals, pesticides and volatile organic compounds. Accordingly, the Permittee must not discharge these or any other contaminants that could impair beneficial uses of the ground water.

F. COMPLIANCE MONITORING REQUIREMENTS

1. Compliance Monitoring Wells

The Permittee will monitor two upgradient and two downgradient compliance monitoring wells at the Blue Mountain Biogas Facility. Compliance monitoring well construction details are provided in Table 3.

Table 3: Monitoring Well Information

Well	Location	Elevation (TOC)	Well Depth	Depth of Screened Interval
MW-1U	38.1741 N, -113.2988 W	5103.6	85.5	73 - 83
MW-2U	38.1729 N, -113.2988 W	5101.4	85	73 - 83
MW-3D	38.1741 N, -113.2954 W	5097.3	80	70 - 80
MW-4D	38.1729 N, -113.2954 W	5094.4	78	67 - 77

2. Protection of Monitoring Wells

All compliance monitoring wells must be protected from structural damage or contamination from surface spills. Compliance monitoring wells shall be maintained in full operational condition for the life of this permit. Any compliance monitoring well that becomes damaged beyond repair or is rendered unusable for any reason will be replaced by the Permittee within 90 days or as directed by the Director.

3. General Provisions

- a) *Future Modification of the Monitoring Program* - If at any time the Director determines the monitoring program to be inadequate, the Permittee shall submit within 30 days of receipt of written notice from the Director a modified monitoring plan that addresses the inadequacies noted by the Director.
- b) *Compliance Monitoring Period* - Monitoring shall continue upon the issuance of this permit and throughout the term of this permit.. For facilities that are constructed during the term of this permit, monitoring shall commence upon initiation of operation of the new facility.
- c) *Laboratory Approval* - All water quality analyses shall be performed by a laboratory certified by the State of Utah to perform such analyses, in accordance with Utah Admin. Code R317-6-6(6.3)(L).
- d) *Water Level Measurement* - In association with each sampling event, water level measurements shall be made in each monitoring well prior to removal of any water from the well casing. These measurements will be made from a surveyed permanent single reference point clearly marked on the top of the well or surface casing. Measurements will be made to the nearest 0.01 foot.
- e) *Sampling Protocol* - Water quality samples will be collected, handled and analyzed in conformance with the current approved version of the *Water Quality Sampling, Handling, and Analysis Plan*. The results of ground water monitoring shall be reported in accordance with the schedule in Part I Section H.
- f) *Ground Water Analyses* - The following analyses shall be performed on all water samples collected from monitoring wells:
 - i) Field Stabilization Parameters: pH, specific conductance, temperature
 - ii) Laboratory Analysis: Ammonia as nitrogen, bicarbonate, chloride, nitrate

+ nitrite as nitrogen, bromide, sulfate, and Total Dissolved Solids (TDS).

g) *Monitoring Frequency*

The Permittee shall conduct ground water compliance monitoring for the parameters listed in Table 2 over the monitoring period described below in Table 4 on a semi-annual basis.

After installation of any new compliance monitoring well(s) that may be required by the Division, the Permittee will conduct an accelerated monitoring program for any new wells. Newly established compliance monitoring wells will be sampled quarterly until a minimum of eight (8) events have been completed to establish baseline ground water quality. Sampling events will then change to a semi-annual compliance monitoring frequency after completion of the accelerated background monitoring period.

G. NON-COMPLIANCE STATUS

1. Probable Out-of-Compliance Status - The Permittee shall evaluate the results of each ground water sampling event to determine any exceedance of the Ground Water Protection Levels found in Table 2. Upon determination that a Ground Water Protection Level has been exceeded, the Permittee shall:
 - a) Immediately re-sample the source(s) found to be in probable out-of-compliance status for laboratory analysis of the exceeded protection level parameter(s). Submit the analytical results thereof and notify the Director of the probable out-of-compliance status within 30 days of the initial detection.
 - b) Upon exceedance of any one parameter listed in Table 2 for two consecutive sampling events, immediately implement an accelerated schedule of monthly sampling, consistent with the requirements of this permit. This monthly sampling will continue for at least two months or until the compliance status can be determined by the Director. Reports on the results of this sampling will be submitted to the Director as soon as they are available, but no later than 30 days from each date of sampling.
2. Out-of-Compliance Status Based on Confirmed Exceedance of Permit Ground Water Protection Levels
 - a) Out of Compliance Status shall be defined as follows:

For parameters that have been defined as detectable in the background and for which protection levels have been established, out-of-compliance shall be defined as two consecutive samples exceeding the protection level and the mean background concentration by two standard deviations.
 - b) Notification and Accelerated Monitoring - upon determination by the Permittee or the Director, in accordance with Utah Admin. Code R317-6-6(6.17), that an out-of-compliance status exists, the Permittee shall:
 - 1) Verbally notify the Director of the out-of-compliance status or

acknowledge Director notice that such a status exists within 24 hours of receipt of data, and

- 2) Provide written notice within 5 days of the determination, and
 - 3) Continue an accelerated schedule of monthly ground water monitoring for at least two months and continue monthly monitoring until the facility is brought into compliance or as determined by the Director.
- c) Source and Contamination Assessment Study Plan - within 30 days after the written notice to the Director required in Part I.G.2.b.2, the Permittee shall submit a source and contamination assessment study plan and compliance schedule for:
- 1) Assessment of the source or cause of the contamination, and determination of steps necessary to correct the source.
 - 2) Assessment of the extent of the ground water contamination and any potential dispersion.
 - 3) Evaluation of potential remedial actions to restore and maintain ground water quality, and ensure that the ground water standards will not be exceeded at the compliance monitoring locations.

H. REPORTING REQUIREMENTS

1. Water Monitoring - monitoring required in Part I.F above shall be reported according to the schedule in Table 4 below, unless modified by the Director:

Table 4: Compliance Monitoring Report Schedule

<u>Monitoring Period</u>	<u>Report Due Date</u>
January through June	August 1
July thru December	February 1

2. Ground Water Quality Sampling - reporting will include:
 - a) Field Data Sheets - or copies thereof, including the field measurements and other pertinent field data, such as sampling location name/number, date and time, names of sampling crew, type of sampling: pump or grab, volume of water purged before sampling.
 - b) Water Level Measurements - water level measurements from ground water monitoring wells will be reported as measured depth to ground water from the surveyed casing measuring point, and ground water elevations as converted by casing measuring point elevations.
 - c) Laboratory Analytical Results - including date sampled, date received; and the results of analysis for each parameter, including: value or concentration, units of measurement, reporting limit (minimum detection limit for the examination), analytical method, and the date of the analysis.

3. Electronic Filing Requirements - In addition to submittal of the hard copy data, the Permittee will electronically submit the required ground water monitoring data in the electronic format specified by the Director. The data may be submitted by electronic transmittal of a PDF, compact disc, USB flash drive, or other approved transmittal mechanism.
4. Monitoring Well As-Built Report - For each new monitoring well that is constructed, the Permittee shall submit diagrams and descriptions of the final completion of the monitoring wells. The report is due within 60 days of the date of well completion. The report shall include:
 - a) Casing: depth, diameter, and type of material.
 - b) Screen: length, depth interval, diameter, material type, slot size.
 - c) Sand Pack: depth interval, material type and grain size.
 - d) Annular Seals: depth interval, material type.
 - e) Surface Casing and Cap: depth, diameter, material type, protection measures constructed.
 - f) Elevation and Location: ground surface elevation, elevation of water level measuring point, latitude and longitude in hours, minutes and seconds.
 - g) Well construction description, well completion description, results of well pump tests or slug tests.

I. COMPLIANCE SCHEDULE

To ensure compliance with this permit, the Permittee shall submit the following compliance schedule items to the Division by the specified due dates. The items on the compliance schedule are listed below:

1. A *Spill Prevention and Remediation Plan* must be submitted to the Division for Director approval within sixty (60) days of the resumption of facility operations. Upon approval by the Director, the *Spill Prevention and Remediation Plan* will be included as an appendix to this permit.
2. A *Closure Plan* must be submitted to the Division for Director approval at least 180 days prior to closure of any digester or basin system, specifying the closure plan for disposition of the liquids, solids, and liner material of the digesters and basins to be closed. The liner material must be disposed of in a manner that will not lead to ground water contamination. The Permittee may be required to sample the monitoring wells for a post-closure monitoring period as determined by the Director.
3. An updated *Sampling and Analysis Plan* must be submitted to the Division for Director approval within sixty (60) days of the resumption of operations.

PART II MONITORING, RECORDING AND REPORTING REQUIREMENTS

- A. REPRESENTATIVE SAMPLING
Samples taken in compliance with the monitoring requirements established under Part I shall be representative of the monitored activity.
- B. ANALYTICAL PROCEDURES
Water sample analysis must be conducted according to test procedures specified under UAC R317-6-6.3.L, 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. REPORTING OF MONITORING RESULTS
Monitoring results obtained during each reporting period specified in the permit shall be submitted to the Director, Utah Division of Water Quality at the following address:
- State of Utah
Division of Water Quality
P.O. Box 144870
Salt Lake City, Utah 84114-4870
Attention: Ground Water Protection Section
or
Electronic Reporting:
<https://deq.utah.gov/water-quality/water-quality-electronic-submissions>
- E. 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.
- F. ADDITIONAL MONITORING BY THE PERMITTEE
If the Permittee monitors any pollutant more frequently than required by this permit, using approved test procedures as specified in this permit, the results of this monitoring shall be included in the calculation and reporting of the data submitted. Such increased frequency shall also be indicated.
- G. 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.

H. RETENTION OF RECORDS

The Permittee shall retain records of all monitoring information, including all calibration and maintenance records and 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 three years from the date of the sample, measurement, report or application. This period may be extended at the request of the Director at any time.

I. TWENTY-FOUR HOUR NOTICE OF NONCOMPLIANCE REPORTING

1. The Permittee shall verbally report any noncompliance which may endanger public health or the environment as soon as possible, but no later than 24 hours from the time the Permittee first became aware of the circumstances. The report shall be made to the Utah Department of Environmental Quality 24-hour number, (801) 536-4123, or to the Division of Water Quality, Ground Water Protection Section at (801) 536-4300, during normal business hours (Monday through Friday 8:00 am - 5:00 pm Mountain Time).
2. A written submission shall also be provided to the Director 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; and,
 - d) Steps taken or planned to reduce, eliminate, and prevent recurrence of the noncompliance.
3. Reports shall be submitted to the addresses in Part II.D, Reporting of Monitoring Results.

J. 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 II.D are submitted.

K. INSPECTION AND ENTRY

The Permittee shall allow the Director or upon the presentation of credentials and other documents as may be required by law, another representative 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; and,
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.

P/N DRAFT

PART III 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 is subject to a fine not exceeding \$25,000 per day of violation. Any person convicted under Section 19-5-115(2) of the Act a second time shall be punished by a fine not exceeding \$50,000 per day. 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.

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 the Permittee only when the operation is necessary to achieve compliance with the conditions of the permit.

PART IV 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 when the alteration or addition could significantly change the nature of the facility or increase the quantity of pollutants discharged.
- B. ANTICIPATED NONCOMPLIANCE
The Permittee shall give advance notice 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 must apply for and obtain a permit renewal or extension. The application should 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 as follows:
 - a) For a corporation: by a responsible corporate officer;
 - b) For a partnership or sole proprietorship: by a general partner or the proprietor, respectively.
 - c) For a municipality, State, Federal, or other public agency: 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 specified either an individual or a position having responsibility for the overall operation of the regulated facility or activity, such as the position of plant manager, operator of a well or a well field, superintendent, position of equivalent responsibility, or an individual or position having overall responsibility for environmental matters for the company. (A duly authorized representative may thus be either a named individual or any individual occupying a named position.)
3. Changes to Authorization. If an authorization under Part IV.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 Part IV.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 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 by the Permittee, all reports prepared in accordance with the terms of this permit shall be available for public inspection at the offices of the Director. As required by the Act, permit applications, permits, effluent data, and ground water quality data shall not be considered confidential.

J. 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.

K. SEVERABILITY

The provisions of this permit are severable, and if any provision 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.

L. TRANSFERS

This permit may be automatically transferred to a new Permittee if:

1. The current Permittee notifies the Director at least 30 days in advance of the proposed transfer date;
2. The notice includes a written agreement between the existing and new Permittee 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.

M. STATE LAWS

Nothing in this permit shall be construed to preclude the institution of any legal action or relieve the Permittee from any responsibilities, liabilities, penalties established pursuant to any applicable state law or regulation under authority preserved by Section 19-5-117 of the Act.

N. REOPENER PROVISION

This permit may be reopened and modified (following proper administrative procedures) to include the appropriate limitations and compliance schedule, if necessary, if one or more of the following events occurs:

1. If new ground water standards are adopted by the Board, the permit may be reopened and modified to extend the terms of the permit or to include pollutants covered by new standards. The Permittee may apply for a variance under the conditions outlined in R317-6-6.4.D.
2. If alternative compliance mechanisms are required.
3. If subsequent ground water monitoring data reveals the background water quality values in Part I Table 1 are not accurate.