

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

Section 401 Water Quality Certification No. DWQ-2025-05002

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Project: PacifiCorp (project proponent) is seeking to reclassify its 1.2-megawatt Stairs Hydroelectric Project (proposed project) from a minor FERC project license (FERC License No. 597) to a conduit exemption under the Federal Power Act, a process started in February 2024. The project, located on Big Cottonwood Creek in Salt Lake County, Utah, was first licensed in 1957. The change is administrative; operations will not be altered, and there is no proposed construction for the facility. PacifiCorp asserts there will be no fill, stream alteration, or water-quality impacts, though the administrative shift requires reissuing the 401 Water Quality Certification. The facility operates as a run-of-river project, diverting flows from Big Cottonwood Creek via the Storm Mountain Dam into a penstock that leads to the powerhouse. After generating power, the water is released into a tailrace canal, which feeds directly into PacifiCorp's Granite Hydroelectric Project (FERC Project No. 14293) and then into Salt Lake City's Big Cottonwood Canyon Water Treatment Plant (BCCWTP), the city's largest drinking water supplier.

Location: The proposed project is located near Cottonwood Heights, Utah on Big Cottonwood Canyon Road. at approximately 40.623453 and -111.753627.

Watercourse(s): Big Cottonwood Creek-2 AU UT16020204-020_00 (includes Big Cottonwood Creek and tributaries from Big Cottonwood WTP to headwaters)

FERC License No.: 597

Effective Date:

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I. Definitions

- A. **Blue Ribbon Fishery:** status administered by the Utah Division of Wildlife Resources and the Blue Ribbon Advisory Council that indicates the waterbody has high quality in the following attributes: fishing, outdoor experience, fish habitat, and economic benefits.
- B. **Beneficial Use Classes** are how waters of the state are grouped and classified to protect against controllable pollution the beneficial uses designated within each class. UAC R317-2-6.
- C. **Designated Beneficial Uses** means a water's present most reasonable uses, grouped by use classes to protect the uses against controllable pollution. Beneficial uses designated within each class are described in Utah Administrative Code (UAC) R317-2-6 and waterbodies beneficial uses can be found in UAC R317-2-13. For the purposes of this document, the term "designated beneficial uses" will be used to describe all uses required to be protected by Utah water quality standards and antidegradation policy.
- D. **Category 1 Waters** are "Waters which have been determined by the Board to be of exceptional recreational or ecological significance or have been determined to be a State or National resource requiring protection, shall be maintained at existing high quality through designation, by the Board after public hearing, as Category 1 Waters." UAC R317-2-3.2
- E. **Existing Uses** "*means those uses actually attained in a water body on or after November 28, 1975, whether or not they are included in the water quality standards.*" UAC R317-1-1. "*If a situation is found where there is an existing use which is a higher use (i.e., more stringent protection requirements) than that current designated use, the Director will apply the water quality standards and anti-degradation policy to protect the existing use.*" UAC R317-2-3.
- F. **Level I Antidegradation Review (ADR):** "is conducted to insure that existing uses will be maintained and protected." UAC R317-2-3.5
- G. **Level II Antidegradation Review (ADR)** is conducted to ensure that water quality degradation is necessary and that the proposed activity is documented to be both economically and socially important. Level II ADRs are required for any activity that's impacts are not considered temporary and limited and is likely to result in degradation of water quality.
- H. **Project Proponent** "*means the applicant for license or permit or entity seeking certification.*" 40 CFR §121.1.
- I. **Protection Category:** "*Utah's surface waters are assigned to one of three protection categories that are determined by their existing biological, chemical and physical integrity, and by the interest of stakeholders in protecting current conditions.*" Utah Antidegradation Review Implementation Guidance (V 2.1)
- J. **Total Maximum Daily Load (TMDL)** "*means the maximum amount of a particular pollutant that a waterbody can receive and still meet state water quality standards, and an allocation of that amount to the pollutant's sources.*" UAC R317-1-1
- K. **Waters of the United States (WOTUS)** means waterbodies subject to the provisions of the Clean Water Act.
- L. **303(d) list** is a state's list of impaired and threatened waters, including but not limited to; streams, lakes, and reservoirs adopted to implement the Clean Water Act Section 303(d).

II. Acronyms

- AU – Assessment Unit
- BMPs – Best Management Practices
- CFR – Code of Federal Regulations
- CWA – Clean Water Act
- DEQ – Utah Department of Environmental Quality
- DWQ – Utah Division of Water Quality
- EIS – Environmental Impact Statement
- EPA – Environmental Protection Agency
- FERC – Federal Regulatory Energy Commission
- mg/L – milligrams per liter
- MS4 – Municipal Separate Storm Sewer System

NEPA – National Environmental Policy Act
NOI – Notice of Intent
NTU – Nephelometric Turbidity Units
SWPPP – stormwater pollution prevention plan
TMDL – Total Maximum Daily Load
TSS – total suspended solids
UAC – Utah Administrative Code
UPDES – Utah Pollutant Discharge Elimination System
WQC – Water Quality Certification
WQS – Utah Water Quality Standards
WOTUS – Waters of the United States

III. Executive Summary

Pursuant to Section 401 of the CWA 33 U.S.C. Section 1251 et seq., the DWQ grants Water Quality Certification (Certification) to PacifiCorp for the proposed Stair Hydroelectric (Project) in Cottonwood Heights, Salt Lake County, Utah. Certification is subject to the conditions outlined in this document and adherence to any Federal Energy Regulatory Commission (FERC) License. The conditions outlined in this Certification are necessary to assure compliance with effluent limitations, monitoring requirements, and/or other applicable laws and regulations adopted for state primacy of the CWA.

DWQ's conditions are based on and are necessary to comply with applicable state rules. Specifically, the following Utah rules represent overarching considerations that require the conditions outlined by this document to apply to the Federal Energy Regulatory Commission (FERC) License. Utah's rules promulgating standards of quality for waters of the State affirm "*it shall be unlawful and a violation of these rules for any person to discharge or place any wastes or other substances in such manner as may interfere with designated uses protected by assigned classes or to cause any of the applicable standards to be violated*" UAC R317-2-7.1.a. Additionally, "*all actions to control waste discharges under these rules shall be modified as necessary to protect downstream designated uses*" UAC R317-2-8. As stated in UAC R317-15-6.1 the Director will ordinarily consider whether the proposed discharge "*impairs the designated beneficial use classifications (e.g., aquatic life, drinking water, recreation) in Section R317-2-6*" UAC R317-15-6.1.A.1., "*exceeds water quality criteria, either narrative or numeric, in Section R317-2-7*" UAC R317-15-6.1.A.2. or "*fails to meet the antidegradation (ADR) requirements of Section R317-2-7*" UAC R317-15-6.1.A.3.

The DWQ received a request for a pre-filing meeting on May 27, 2025, from Eve Davis with PacifiCorp. DWQ attended a pre-filing meeting with the project proponent on June 19, 2025. Eve Davis with PacifiCorp submitted a 401 Water Quality Certification application on June 26, 2025, and the DWQ Determined the application was complete. FERC issued a Notice of Reasonable Period of Time for the Water Quality Certification Application for the Stairs Project to be one year. DWQ has until June 26, 2026, to act on the request.

IV. Background

PacifiCorp (project proponent) is seeking to reclassify the Stairs Hydroelectric Project (proposed project), a 1.2-megawatt hydroelectric power plant. The proposed project was previously covered under a minor FERC project license and is applying for a conduit exemption. The project proponent began pursuing a Joint Conduit Exemption and License Surrender for the project pursuant to Section 30(a)(2) of the Federal Power Act in February 2024. The project proponent asserts that the conduit exemption is the more appropriate classification for the project. The project is located on Big Cottonwood Creek in Salt Lake County, Utah.

The plant was constructed in the late 1800s. The proposed project received its first license in 1957. The proposed project was last relicensed in the late 1990s (FERC License No. 597), including a 401 Water Quality Certification for the Project issued on April 3, 1996. There will be no changes to the proposed project's ownership, operations, construction, or maintenance activities. However, the administrative shift from a license to a conduit-exempt facility necessitates the reissue of the 401 Water Quality Certification. The project proponent asserts that there will be no fill, stream alteration, or water quality impacts due to the relicensing.

V. The proposed project operates as a run-of-river facility, meaning the inflow into the penstock approximately equals the outflow from the powerhouse, with no water storage. The current facility consists of an earth-fill diversion dam, a spillway, an intake structure, a penstock, a powerhouse, a turbine generator, and a tailrace. The facility generates head by utilizing the natural fall of Big Cottonwood Creek. Flows from Big Cottonwood Creek are diverted at Storm Mountain Dam into a steel flowline and penstock leading to the Stairs powerhouse. After generating power, the flows are released into the tailrace canal. The Project's tailrace canal feeds water directly into a non-Project intake and water supply pipeline that then conveys flow through PacifiCorp's Granite Hydroelectric Project (Granite Project) (FERC Project No. 14293), a separate PacifiCorp hydroelectric generating facility regulated by FERC under a conduit exemption. Water is then diverted into Salt Lake City's Big Cottonwood Canyon Water Treatment Plant (BCCWTP) located at the mouth of Big Cottonwood Canyon. BCCWTP is Salt Lake City's largest supplier of drinking water.

VI. **Aquatic Resource Impacts**

All Waters of the State of Utah (defined in UAC R317-1-1) are protected from pollutant discharges that affect water quality by narrative standards (see UAC R317-2-7.2); broadly, discharges should not become offensive or cause undesirable conditions in human health effects or aquatic life. In addition, some particularly sensitive classes of water are further protected from deleterious effects of specific pollutants by application of numeric criteria to designated beneficial uses of that waterbody. Listed below are the water features, grouped by AUs, impacted by the Project, their associated designated beneficial uses (see UAC R317-2-6 and UAC R317-2-13) and any impairments:

A. Big Cottonwood Creek-2 AU UT16020204-020_00 (includes Big Cottonwood Creek and tributaries from Big Cottonwood WTP to headwaters)

1. Beneficial Use Designations

- a. Class 1C: Protected for domestic purposes with prior treatment process as required by the Utah Division of Drinking Water.
- b. Class 2B: Protected for infrequent primary contact recreation. Also protected for secondary contact recreation where there is a low likelihood of ingestion of water or a low degree of bodily contact with water. Examples include, but are not limited to, wading, hunting, and fishing.
- c. Class 3A: Protected for cold water species of game fish and other cold water aquatic life, including the necessary aquatic organisms in their food chain.

2. Impairments and Total Maximum Daily Loads (TMDLs)

Results from the current water quality assessment, as documented in Utah's Final 2024 Integrated Report^[1], indicate that the water quality of Big Cottonwood Creek-2 AU is impaired for E. coli, which impacts beneficial use class 1C (domestic/drinking water source and 2B (infrequent primary contact recreation). Big Cottonwood Creek-2 AU is also impaired for Cadmium and Copper which also impact

^[1] <https://lf-public.deq.utah.gov/WebRequest/ElectronicFile.aspx?docid=87957&eqdocs=DWQ-2024-003593>

beneficial use class 3A (cold water fishery/aquatic life). The CWQ directs states to prepare a plan to restore water quality to impaired waters, otherwise known as a TMDL study. A TMDL is required for each parameter and waterbody to define pollutant reduction requirements necessary for the waterbody to meet water quality standards. At present, no TMDLs have been finalized for the Big Cottonwood Creek-2 AU.

3. Antidegradation Review

The waters within the Big Cottonwood Creek-2 are considered Category 1 waters for antidegradation purposes. Category 1 waters in Utah are “Waters which have been determined by the Board to be of exceptional recreational or ecological significance or have been determined to be a State or National resource requiring protection, shall be maintained at existing high quality through designation, by the Board after public hearing, as Category 1 Waters”, as described in UAC R317-2-3.2. New point source discharges of wastewater, treated or otherwise, are prohibited in such segments after the effective date of designation.

Based on the submitted documentation, the DWQ has determined that a Level II ADR will not be required for this project because the proposed activity does not involve any new construction or changes to the existing facility. The facility has already been constructed and has been licensed since 1957. The proposed project was last issued a 401 Water Quality Certification in 1996, and the facility is only seeking a licensing change. The “Utah Antidegradation Review Implementation Guidance”² states “Discharges that were permitted prior to February 1994, when the rule establishing Category 1 waters was promulgated, are considered grandfathered.”.

VII. Certification Conditions

- A. All activities with a potential discharge to WOTUS must implement and maintain BMPs to fully protect the waterbodies assigned beneficial use(s).
- B. All activities shall not cause further degradation of impaired waterbodies, as defined in DWQ’s most recent 303(d) list, regardless of whether a TMDL has been completed. The Project Proponent must review impairments on the waterbodies where the Project has the potential to discharge and is responsible for ensuring that water quality standards are not exceeded and designated beneficial uses are not impaired.
- C. Hazardous and otherwise deleterious materials (e.g. oil, gasoline, chemicals, trash, sawdust, etc.) shall not be stored, disposed of, or accumulated or conveyed through adjacent to or in immediate vicinity WOTUS unless adequate measures and controls are provided to ensure those materials would not enter WOTUS in the State of Utah. **Any spill or discharge of oil or other substance which may cause pollution to WOTUS in the State of Utah, including wetlands, must be immediately reported to the Utah DEQ Hotline at (801) 536-4123, a 24-hour phone number.**
- D. All activities conducted in WOTUS in the State of Utah shall be conducted in the “dry” to the maximum extent practicable, by diverting flow utilizing cofferdams, berms constructed of sandbags, clean rock (containing no fine sediment) or other non-erodible, non-toxic material. All diversion materials shall be removed at the completion of the work. The Project Proponent shall consider conducting instream work during low flow conditions and work shall not be conducted during spawning season. Additionally, construction machinery shall not be operated within WOTUS in the State of Utah unless it is unavoidable, in which case it shall be conducted in the “dry” as stated above. The work shall be conducted in a manner to

² <https://lf-public.deq.utah.gov/WebLink/ElectronicFile.aspx?docid=15403&eqdocs=DWQ-2019-001047&dbid=0&repo=Public>

minimize the duration of the disturbance, turbidity increases, substrate disturbance, and minimize the removal of riparian vegetation. Construction machinery shall be clean to prevent the transfer of aquatic invasive species.

- E. All activities conducted in or immediately adjacent to WOTUS in the State of Utah with assigned beneficial use class 3A (cold water fishery) or has blue ribbon fishery designation must avoid removal of native riparian vegetation that provides stream shading to the maximum extent practicable. Any Projects that approve removal of riparian vegetation that provides shade must require reestablishment of native vegetation that provides equal or greater shade. The Project Proponent shall provide successful reestablishment of native vegetation.
- F. Project activities shall not increase water turbidity by more than 10 Nephelometric Turbidity Units (NTUs) in waterbodies classified as beneficial use class 2B for recreation and 3A for cold water aquatic life. Project activities shall not cause an increase in water turbidity by more than 15 NTUS in waterbodies classified as beneficial use class 3D. Project Proponents must continuously monitor turbidity during instream construction to ensure turbidity increases are within the limits listed above. The Project Proponents must provide monthly reports to DWQ during instream construction in waterbodies with class 2B, 3A, and 3D beneficial use designations that include at a minimum: baseline (reference) turbidity measurements in each waterbody where instream construction is occurring.
- G. Construction activities that disturb either greater than one acre of land, or less than one acre of land and is part of a larger common plan of development that would disturb greater than one acre, are required to obtain coverage under the Utah Pollutant Discharge Elimination System (UPDES) Storm Water General Permit for Construction Activities (Permit No. UTRC00000^[3]). The permit requires the development of a Storm Water Pollution Prevention Plan (SWPPP) to be implemented and updated from the commencement of any soil disturbing activities at the site, until final stabilization of the project. The SWPPP should include, but not be limited to, final site maps and legible plans, location of storm water outfalls/discharges, and information pertaining to any storm water retention requirements.
- H. Dewatering activities, if necessary during construction, may require coverage under the UPDES General Permit for Construction Dewatering (Permit No. UTG070000^[4]) applies to the construction dewatering of uncontaminated groundwater or surface water sources due to construction activities; hydrostatic testing of pipelines or other fluids vessels; water used in disinfection of drinking water vessels; and other similar discharges in the State of Utah that have no discharge of process wastewater. The permit requires submission of a Notice of Intent (NOI); maintenance of a discharge log; development and implementation of a dewatering control plan; and monitoring for Flow, Oil & Grease, pH, Total Suspended Solids (TSS), and Chlorine (required when chlorinated water is used and discharged to a stream with a chlorine standard). Discharge Monitoring Reports (DMRs) are required to be submitted monthly, regardless of whether a site discharges in a particular month.

VIII. Condition Justification and Citation

- A. Implementation of BMPs. Project approval is conditioned on implementation of BMPs, which are required to be implemented by the antidegradation policy in UAC R317-2-3, water quality standards may be violated

³¹¹ <https://documents.deq.utah.gov/water-quality/stormwater/construction/DWQ-2020-013890.pdf>

⁴¹² <https://documents.deq.utah.gov/water-quality/permits/updes/DWQ-2019-005143.pdf>

unless appropriate BMPs are incorporated to minimize the erosion-sediment and nutrient load. Violations of water quality standards could cause a waterbody to fail to meet its designated beneficial uses. As required by Utah's antidegradation policy UAC R317-2-3.1 "*Existing instream water uses shall be maintained and protected. No water quality degradation is allowable which would interfere with or become injurious to existing instream water uses.*" As stated in UAC R317-15-6.1 the Director will ordinarily consider whether the proposed discharge "*impairs the designated beneficial use classifications (e.g., aquatic life, drinking water, recreation) in Section R317-2-6*" UAC R317-15-6.1.A.1., "*exceeds water quality criteria, either narrative or numeric, in Section R317-2-7*" UAC R317-15-6.1A.2. or "*fails to meet the antidegradation (ADR) requirements of Section R317-2-7*" UAC R317-15-6.1.A.3 when making a Certification decision. If appropriate BMPs are incorporated, there is assurance that the Project will not violate water quality standards or impair a waterbody's beneficial use.

Citation(s): UAC R317-2-3.1, UAC R317-15-6.1, UAC R317-15-6.1.A.1., UAC R317-15-6.1.A.2., UAC R317-15-6.1.A.3.

B. Proper Storage of Hazardous and Otherwise Deleterious Materials. Project approval is conditioned on proper storage of hazardous and otherwise deleterious materials, and notification of any discharge of those materials, to assure that water quality and narrative standards are not violated. When projects are occurring in or around waterbodies, there is a chance for pollutants to inadvertently be spilled/discharged into waterbodies due to increased risk from project related activities (e.g. presence of machinery, onsite chemical and gas storage, improper waste storage, and failure to use proper BMPs). To prevent or reduce the possibility that hazardous and otherwise deleterious materials are inadvertently discharged into a waterbody, Project Proponents must not store, dispose of, or accumulated such materials adjacent to or in immediate vicinity of WOTUS unless adequate measures and controls are provided to ensure those materials would not enter waters of the State. If there is a discharge to WOTUS in the State of Utah, it must be immediately reported to the DEQ, as stated in Utah Code Section 19-5-114. An inadvertent discharge of pollutants can cause violations with Utah's Narrative Standards, which states "*It shall be unlawful, and a violation of these rules, for any person 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 bioassay or other tests performed in accordance with standard procedures; or determined by biological assessments in Subsection R317-2-7.3*" UAC R317-3-7.2. Utah's rules promulgating standards of quality for waters of the State affirm "*it shall be unlawful and a violation of these rules for any person to discharge or place any wastes or other substances in such manner as may interfere with designated uses protected by assigned classes or to cause any of the applicable standards to be violated*" UAC R317-2-7.1.a. Discharges of pollutants, even inadvertently, could cause both a violation of applicable water quality standards and possibly interfere with a waterbodies designated uses.

Citation(s): Utah Code § 19-5-114, UAC R317-3-7.2, UAC R317-2-7.1.A, UAC R317-15-6.1., UAC R317-15-6.1.A.1., UAC R317-15-6.1A.2.

C. Dry Conditions to the Maximum Extent Practicable. Project approval is conditioned on conducting activities under dry conditions to the maximum extent practicable to assure that water quality standards are not exceeded. Construction machinery used within a waterbody can cause significant impacts to water quality if adequate precautions are not taken. When it is unavoidable to operate construction machinery within the waterbody the

Project Proponent should focus on minimizing the duration of the disturbance, turbidity increase, substrate disturbance, removal of riparian vegetation, and work shall be conducted in the “dry” to the maximum extent practicable. Minimizing the duration of impact reduces the chance that the impacts will accumulate and cause significant impacts to water quality. Minimizing turbidity increases is important because the State of Utah has numeric water quality criteria for turbidity in certain use designations, which could be violated if the Project Proponent does not take proper steps to minimize the increases. Water quality criteria for turbidity will be violated if there is an increase of 10 NTUs in waterbodies with designated uses related to recreation and if there is an increase of 10 NTUs (class 3A and 3B) or 15 NTUs (class 3C and 3D) in waterbodies with aquatic wildlife designated uses. UAC R317-2-14.1 and UAC R317-2-14.2. Conducting work in the “dry” to the maximum extent practicable will help reduce the risk of the numeric criteria for turbidity to be exceeded, as well as reduce the risk of a significant sediment load being transported downstream. Discharges of sediment can not only violate numeric criteria, but also, risk violating Utah’s narrative standard *“It shall be unlawful, and a violation of these rules, for any person 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 bioassay or other tests performed in accordance with standard procedures; or determined by biological assessments in Subsection R317-2-7.3.”* UAC R317-2-7.2. Violations of numeric and narrative criteria could cause a waterbody not to meet its designated beneficial use and a transport of sediment downstream could prevent a downstream waterbody from meeting its designated beneficial uses. As required by Utah’s antidegradation policy UAC R317-2-3.1 *“Existing instream water uses shall be maintained and protected. No water quality degradation is allowable which would interfere with or become injurious to existing instream water uses”*. Additionally, *“All actions to control waste discharges under these rules shall be modified as necessary to protect downstream designated uses”* UAC R317-2-8. As stated in UAC R317-15-6.1 the Director will ordinarily consider whether the proposed discharge *“impairs the designated beneficial use classifications (e.g., aquatic life, drinking water, recreation) in Section R317-2-6”* UAC R317-15-6.1.A.1., *“exceeds water quality criteria, either narrative or numeric, in Section R317-2-7”* UAC R317-15-6.1A.2. or *“fails to meet the antidegradation (ADR) requirements of Section R317-2-7”* UAC R317-15-6.1.A.3 when making a certification decision.

Citation(s): UAC R317-2-3.5., UAC R317-2-7.1.A., UAC R317-2-14.1, UAC R317-2-14.2., UAC R317-2-7.1.a., UAC R317-2-7.2., UAC R317-2-3.1, UAC R317-2-8. , UAC R317-15-6.1, UAC R317-15-6.1.A.1, UAC R317-15-6.1A.2., UAC R317-15-6.1.A.3.

D. Turbidity Increases and Instream Construction Monitoring. Beneficial uses associated with recreation and aquatic life have been assigned numeric criteria for turbidity. An increase of more than 10 NTUs in class 2B and 3A waterbodies above the turbidity of that waterbody would be a violation of instream criteria for waterbodies that have recreation or aquatic life uses. Similarly, an increase of more than 15 NTUs in class 3D waterbodies above the turbidity of that waterbody would be a violation of instream criteria for waterbodies that have aquatic life uses. UAC R317-2-14.1 and UAC R317-2-14.2. Therefore, turbidity increases above those allowed by this Certification could cause the waterbody to fail to meet its designated beneficial use classes. Turbidity monitoring during instream construction in waterbodies with class 2B, 3A and 3D beneficial uses designations will ensure turbidity increases do not violate Utah’s water quality standards. Utah’s antidegradation policy states *“existing instream water uses shall be maintained and protected. No water quality degradation is allowable which would interfere with or become injurious to existing instream water uses”* UAC R317-2-3.1. Failure to minimize turbidity increases that result in the failure to maintain beneficial use

class 2B or 3A would be considered a violation of Utah's rules and promulgated standards of quality for waters of the State, specifically Utah's antidegradation policy found at UAC R317-2-3. The Director will ordinarily consider whether the proposed discharge "*impairs the designated beneficial use classifications (e.g., aquatic life, drinking water, recreation) in Section R317-2-6*" UAC R317-15-6.1.A.1., "*exceeds water quality criteria, either narrative or numeric, in Section R317-2-7*" UAC R317-15-6.1A.2. or "*fails to meet the antidegradation (ADR) requirements of Section R317-2-7*" UAC R317-15-6.1A.3 when making a certification decision.

Citations: UAC R317-2-3.1, UAC R317-2-3, UAC R317-2-14.1, UAC R317-2-14.2 R317-15-6.1, UAC R317-15-6.1.A.1, UAC R317-15-6.1A.2., UAC R317-15-6.1.A.3.

E. UPDES Storm Water General Permit for Construction Activities (Permit No. UTRC00000). UAC R317-8-2.5, gives the Director authority to issue general permits to cover specific categories of discharges, including storm water and construction dewatering that is discharged to a surface water. According to UAC R317-8-3.9 (6)(d), construction activities that result in a land disturbance of equal to or greater than one acre, including clearing, grading, and excavation are "industrial activities" under UAC R317-8-3.9(1)(a) and are therefore required to obtain and comply with a UPDES Permit for storm water discharges. This only applies to projects that meet or exceed one acre of disturbance.

Citation(s): UAC R317-8-3.9(6)(d) and UAC R317-8-3.9(1)(a)

F. UPDES General Permit for Construction Dewatering (Permit No. UTG070000). UAC R317-8-2.5, gives the Director authority to issue general permits to cover specific categories of discharges, including storm water and construction dewatering that is discharged to a surface water. Under the authority granted by UAC R317-8-2.5, the Director issued the General Permit for Construction Dewatering and Hydrostatic Testing, UPDES Permit No. UTG070000 renewed and effective as of February 1, 2020. UPDES Permit No. UTG070000 applies to construction dewatering of uncontaminated groundwater or surface water sources due to construction activities, hydrostatic testing of pipelines or other fluids vessels, water used in disinfection of drinking water vessels and other similar discharges in the State of Utah that have no discharge of process wastewater. This only applies to projects that require dewatering and discharge to surface water.

Citation(s): UAC R317-8-2.5

IX. Disclaimers

A. Fees

1. The legislatively mandated fee for the 2026 fiscal year is \$125.00/hour for review and issuance of the Section 401 Water Quality Certification. A quarterly invoice will be sent and your payment is due within 30 days.

B. Disclaimers

1. The Project Proponent must acquire all necessary easements, access authorizations and permits to ensure they are able to implement the Project. This Section 401 Certification does not convey any property rights or exclusive privileges, nor does it authorize access or injury to private property.
2. This Section 401 Certification does not preclude the Project Proponent's responsibility of complying with all applicable Federal, State or local laws, regulations or ordinances, including water quality standards.

Permit coverage does not release the project proponent from any liability or penalty, should violations to the permit terms and conditions or Federal or State Laws occur.

3. A Project within a Municipal Separate Storm Sewer System (MS4) jurisdiction, must comply with all the conditions required in that UPDES MS4 Permit and associated ordinances. No condition of this Section 401 Certification shall reduce or minimize any requirements provided in the MS4 Permit. In the case of conflicting requirements, the most stringent criteria shall apply.

X. Public Notice and Comments

As in UAC R317-15-5., this Certification decision is subject to a 30 public notice period. After considering public comment, the Director may execute the Certification issuance, revise it, or abandon it.

- A. Public Notice Dates:
- B. Public Notice Comments/Response:
- C. During finalization of the Certification certain dates, spelling edits, and minor language or formatting corrections may have been completed. Due to the nature of these changes they were not considered major and the Certification will not be Public Noticed again.

XI. Water Quality Certification

The Utah DWQ certifies that if the Project Proponents adhere to the conditions outlined in this Certification and adheres to any FERC License, then the Project will comply with water quality requirements and applicable provisions of the CWA sections 301 (Effluent Limitations), 302 (Water Quality Related Effluent Limitations), 303 (Water Quality Standards and Implementation Plans), 306 (National Standards of Performance), and 307 (Toxic and Pretreatment Effluent Standards).

John K. Mackey P.E., Director

Date