

Official Draft Public Notice Version **March 19th, 2026**

The findings, determinations, and assertions contained in this document are not final and subject to change following the public comment period.

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. **UT0023752**

In compliance with provisions of the Utah Water Quality Act, Title 19, Chapter 5, Utah Code (the "Act"),

FRESENIUS MEDICAL CARE

is hereby authorized to discharge from

FRESENIUS MEDICAL CARE OGDEN FACILITY

to receiving waters named **MILL CREEK**,

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

This Permit shall become effective on **Month XX, 20XX**

This Permit expires at midnight on **Month XX, 20XX**.

Signed this **XXth** day of **Month**, 20**XX**.

Candice A. Hasenyager, P.E.
Director

DWQ-2026-000341

Table of Contents

<u>Outline</u>	<u>Page Number</u>
I. DISCHARGE LIMITATIONS AND REPORTING REQUIREMENTS.....	0
A. Description of Discharge Points.....	0
B. Narrative Standard.....	0
C. Specific Limitations and Self-Monitoring Requirements	0
D. Reporting of Monitoring Results.....	1
II. PRETREATMENT REQUIREMENTS.....	2
III. BIOSOLIDS REQUIREMENTS	5
IV. STORM WATER REQUIREMENTS.....	6
V. MONITORING, RECORDING & GENERAL REPORTING REQUIREMENTS.....	7
A. Representative Sampling	7
B. Monitoring Procedures.....	7
C. Penalties for Tampering.....	7
D. Compliance Schedules.....	7
E. Additional Monitoring by the Permittee.....	7
F. Records Contents	7
G. Retention of Records	7
H. Twenty-four Hour Notice of Noncompliance Reporting.....	8
I. Other Noncompliance Reporting	8
J. Inspection and Entry	9
VI. COMPLIANCE RESPONSIBILITIES	10
A. Duty to Comply	10
B. Penalties for Violations of Permit Conditions.....	10
C. Need to Halt or Reduce Activity not a Defense	10
D. Duty to Mitigate	10
E. Proper Operation and Maintenance.....	10
F. Removed Substances.....	10
G. Bypass of Treatment Facilities.....	10
H. Upset Conditions	12
I. Toxic Pollutants	12
J. Changes in Discharge of Toxic Substances.....	12
VII. GENERAL REQUIREMENTS	14
A. Planned Changes	14
B. Anticipated Noncompliance.....	14
C. Permit Actions.....	14
D. Duty to Reapply.....	14
E. Duty to Provide Information.....	14
F. Other Information	14
G. Signatory Requirements.....	14
H. Penalties for Falsification of Reports.....	16
I. Availability of Reports.....	16
J. Oil and Hazardous Substance Liability.....	16
K. Property Rights.....	16
L. Severability.....	16
M. Transfers.....	16
N. State or Federal Laws	16
O. Water Quality - Reopener Provision.....	17
P. Biosolids – Reopener Provision.....	17
Q. Toxicity Limitation - Reopener Provision	17
VIII. DEFINITIONS	18
A. Wastewater.....	18

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.

Outfall Number
001

Location of Discharge Outfall
 Located at latitude 41° 14' 32" and longitude 111° 59' 22". The discharge flows into the retention basin, then to the Plain City Canal, then to Mill Creek, which is a tributary of the Weber River and hence to the Great Salt Lake. STORET discharge location is 492306.

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 Outfall 001 as defined in Part VIII of this Permit.
2.
 - a. Effective immediately and lasting the duration of this Permit, the Permittee is authorized to discharge from Outfall 001. Such discharges shall be limited and monitored by the Permittee as specified below:

Parameter	Table 1: Effluent Limitations ^(a)				
	Maximum Monthly Avg	Maximum Weekly Avg	Yearly Average	Daily Minimum	Daily Maximum
Biochemical Oxygen Demand (BOD ₅), mg/L	25	35	--	--	--
Total Suspended Solids (TSS), mg/L	25	35	--	--	--
Oil & Grease, mg/L	--	--	--	--	10.0
pH, Standard Units	--	--	--	6.5	9
Total Dissolved Solids (TDS), mg/L	--	--	--	--	1,200

PART I
DISCHARGE PERMIT NO. UT0023752
WASTEWATER

Table 2: Self-Monitoring and Reporting Requirements^(a)			
Parameter	Frequency	Sample Type	Units
Total Flow ^{(b)(c)}	Quarterly	Estimate	MGD
BOD ₅	Quarterly	Grab	mg/L
TSS	Quarterly	Grab	mg/L
pH	Quarterly	Grab	SU
Oil & Grease ^(d)	Quarterly / When Sheen Observed	Grab	mg/L
TDS	Quarterly	Grab	mg/L

Notes Tables 1 and 2

- a. See Definitions, *Part VIII*, for definition of terms.
- b. Flow measurements of influent/effluent volume shall be made in such a manner that the Permittee can affirmatively demonstrate that representative values are being obtained.
- c. If the rate of discharge is controlled, the rate and duration of discharge shall be reported.
- d. Oil & Grease shall be when sheen is present or visible. If no sheen is present or visible, report NA.

3. Compliance Schedule

- a. There is no Compliance Schedule included in this renewal Permit.

4. Acute/Chronic Whole Effluent Toxicity (WET) Testing.

As part of the nationwide effort to control toxics, biomonitoring requirements are being included in all major Permits and in minor Permits for facilities where effluent toxicity is an existing or potential concern. Authorization for requiring effluent biomonitoring is provided for in Utah Administrative Code (UAC) R317-8-4.2 and R317-8-5.3. The Whole Effluent Toxicity (WET) Control Guidance Document, February 15, 1991, outlines guidance to be used by Utah Division of Water Quality staff and by Permittee's for implementation of WET control through the UPDES discharge Permit program.

The Permittee is a minor point source, and the discharge is not likely to be toxic. As a result, biomonitoring of the effluent will not be required. However, the Permit will contain a WET reopener provision.

D. Reporting of Monitoring Results.

1. 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 (DMR) Form (EPA No. 3320-1)* or by NetDMR, post-marked or entered into NetDMR no later than the 28th day of the month following the completed reporting period. The first report is due on **Month 28, 20--**. 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 DWQ at the following address:

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

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

PART II
DISCHARGE PERMIT NO. UT0023752
PRETREATMENT

II. PRETREATMENT REQUIREMENTS

A. Definitions. For Part II of this Permit, 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 UPDES 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 CWA, 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 State or 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 UPDES 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) means:
 - a. Except as provided in Parts II.A. (5)(b) and (5)(c) of this definition, the term Significant Industrial User means:
 - (1) All Industrial Users subject to Categorical Pretreatment Standards under 40 C.F.R. § 403.6 and 40 C.F.R. § chapter I, subchapter N; and
 - (2) Any other Industrial User that: discharges an average of 25,000 gallons per day or more of process wastewater to the POTW (excluding sanitary, noncontact cooling and boiler blowdown wastewater); contributes a process wastestream which makes up 5 percent or more of the average dry weather hydraulic or

PART II
DISCHARGE PERMIT NO. UT0023752
PRETREATMENT

organic capacity of the POTW Treatment plant; or is designated as such by the Control Authority on the basis that the Industrial User has a reasonable potential for adversely affecting the POTW's operation or for violating any Pretreatment Standard or requirement (in accordance with 40 C.F.R. § 403.8(f)(6)).

- b. The Control Authority may determine that an Industrial User subject to categorical Pretreatment Standards under § 403.6 and 40 C.F.R. § chapter I, subchapter N is a Non-Significant Categorical Industrial User rather than a Significant Industrial User on a finding that the Industrial User does not discharge more than 100 gallons per day (gpd) of total categorical wastewater (excluding sanitary, non-contact cooling and boiler blowdown wastewater, unless specifically included in the Pretreatment Standard) and the following conditions are met:
 - (1) The Industrial User, prior to the Control Authority's finding, has consistently complied with all applicable categorical Pretreatment Standards and Requirements;
 - (2) The Industrial User annually submits the certification statement required in § 403.12(q) together with any additional information necessary to support the certification statement; and
 - (3) The Industrial User never discharges any untreated concentrated wastewater.
- c. Upon a finding that an Industrial User meeting the criteria in Part II.A. (5)(a)(2) of this definition has no reasonable potential for adversely affecting the POTW's operation or for violating any Pretreatment Standards or requirement, the Control Authority may at any time, on its own initiative or in response to a petition received from an Industrial User or POTW, and in accordance with 40 C.F.R. § 403.8(f)(6), determine that such Industrial User is not a Significant Industrial User.

6. User or Industrial User (IU) means a source of Indirect Discharge.

B. 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 CWA, the Permittee shall comply with all applicable federal General Pretreatment Regulations promulgated at 40 C.F.R. § 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 shall meet the requirements of Part II. D. and E. of the Permit.

C. Hazardous Waste Notification. The Permittee shall notify the POTW, the EPA Regional Waste Management Director, the Director and the State hazardous waste authorities in writing if they discharge any substance into a POTW that, if otherwise disposed of, would be considered a hazardous waste under 40 C.F.R. § 261. This notification shall include the name of the hazardous waste, the EPA hazardous waste number, and the type of discharge (continuous or batch).

D. General and Specific Prohibitions.

1. General Prohibitions. The Permittee shall not introduce into a POTW any pollutant(s) which cause Pass Through or Interference. These general prohibitions and the specific prohibitions in Part II.D. 2. apply to the introducing pollutants into a POTW whether or

PART II
DISCHARGE PERMIT NO. UT0023752
PRETREATMENT

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 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.
- E. Categorical Standards. In addition to the general and specific limitations expressed in Part II. D. of this section, applicable National Categorical Pretreatment Standards shall be met by all Industrial Users discharging into a POTW. These standards are published in the federal regulations at 40 C.F.R. § 405 through 471.

III. BIOSOLIDS REQUIREMENTS

The State of Utah has adopted the 40 C.F.R. § 503 federal regulations for the disposal of sewage sludge (biosolids) by reference. However, this facility does not generate, receive, treat or dispose of biosolids. Therefore 40 C.F.R. § 503 shall not apply

PND DRAFT

**PART IV
STORM WATER PERMIT**

IV. STORM WATER REQUIREMENTS.

- A. Industrial Storm Water Permit. Based on the type of industrial activities occurring at the facility, the Permittee may be 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). If the facility is not already covered, the Permittee has 30 days from when this Permit is issued to submit the appropriate Notice of Intent (NOI) for the MSGP or exclusion documentation.

- B. Construction Storm Water Permit. Any construction at the facility that disturbs an acre or more of land, including less than an acre if it is part of a common plan of development or sale, is required to obtain coverage under the UPDES Construction General Storm Water Permit (UTRC00000). Permit coverage must be obtained prior to land disturbance. If the site qualifies, a Low Erosivity Waiver (LEW) Certification may be submitted instead of Permit coverage.

PND DRAFT

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 shall be conducted according to test procedures approved under UAC R317-2-10, UAC R317-8-4.1(10)(d), and/or 40 C.F.R. § 503 utilizing sufficiently sensitive test methods unless other test procedures have been specified in this Permit. Monitoring shall be conducted according to the test procedures specified in this Permit unless another method is required under 40 C.F.R. § subchapters N or O. Sufficiently sensitive test method means: (1) The method minimum level (ML) is at or below the level of the effluent limit established in the Permit for the measured pollutant or pollutant parameter; or (2) The method has the lowest ML of the analytical methods approved under 40 C.F.R. § part 136 or required under 40 C.F.R. § chapter I, subchapter N or O for the measured pollutant or pollutant parameter as per 40 C.F.R. § 122.44(i)(1)(iv)(A).
- 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 two years, 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 Permit Part V.B., 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.
- 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 shall 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 (DWQ) via the 24-hour answering service (801) 536-4123.
 2. The following occurrences of noncompliance shall initially be reported by telephone to the DWQ via the 24-hour answering service 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. For other Permit violations which will not endanger health or the environment, DWQ may otherwise be notified during business hours (801) 536-4300; 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

PART V
DISCHARGE PERMIT NO. UT0023752

- 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 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 shall 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 \$25,000 per day for each violation. 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 Parts II.G. 2 and 3 of this Permit.
 2. Prohibition of Bypass.
 - a. Bypass is prohibited, and the Director may take enforcement action against a Permittee for bypass, unless:

**PART VI
DISCHARGE PERMIT NO. UT0023752**

- (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 Part 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 Parts VI.G.2.a (1), (2) and (3).
3. Notice.
- a. Anticipated bypass. Except as provided in Part VI.G.2 and in Part 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 Part 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

PART VI
DISCHARGE PERMIT NO. UT0023752

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 Part VI.H. 2 of this Permit are met. Director's administrative determination regarding a claim of upset shall not 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 CWA 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 Director 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 Director in accordance with UAC R317-8-4.2(6).

PART VI
DISCHARGE PERMIT NO. UT0023752

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":
 - 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 Director in accordance with UAC R317-8-4.2(6).

PND DRAFT

PART VII
DISCHARGE PERMIT NO. UT0023752

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:
1. The alteration or addition to a Permitted facility may meet one of the criteria for determining whether a facility is a new source in 122.29(b); or
 2. The alteration or addition could significantly change the nature or increase the quantity of pollutants discharged. This notification applies to pollutants which are subject neither to effluent limitations in the Permit nor to notification requirements under Subsection R317-8-4.1(15).
 3. The alteration or addition results in a significant change in the Permittee's sludge use or disposal practices, and such alteration, addition, or change may justify the application of Permit conditions that are different from or absent in the existing Permit, including notification of additional use or disposal sites not reported during the Permit application process or not reported pursuant to an approved land application plan. 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. A person is a duly authorized representative only if:

**PART VII
DISCHARGE PERMIT NO. UT0023752**

- a. The authorization is made in writing by a person described in Part VII.G.1. 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 representative may thus be either a named individual or any individual occupying a named position.
 - (1) For a corporation. By a responsible corporate officer. For the purpose of this section, a responsible corporate officer means:
 - (a) A president, secretary, treasurer, or vice-president of the corporation in charge of a principal business function, or any other person who performs similar policy- or decision-making functions for the corporation, or
 - (b) the manager of one or more manufacturing, production, or operating facilities, provided, the manager is authorized to make management decisions which govern the operation of the regulated facility including having the explicit or implicit duty of making major capital investment recommendations, and initiating and directing other comprehensive measures to assure long term environmental compliance with environmental laws and regulations; the manager can ensure that the necessary systems are established or actions taken to gather complete and accurate information for Permit application requirements; and where authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures.
 - (2) For a partnership or sole proprietorship. By a general partner or the proprietor, respectively; or
 - (3) For a municipality, State, Federal, or other public agency. By either a principal executive officer or ranking elected official. For purposes of this section, a principal executive officer of a Federal agency includes:
 - (a) The chief executive officer of the agency, or
 - (b) a senior executive officer having responsibility for the overall operations of a principal geographic unit of the agency (e.g., Regional Administrators of EPA).
2. All reports required by the Permit and other information requested by the Director shall be signed by a person described in Part VII.G.1. or by a duly authorized representative of that person.
 3. Changes to authorization. If an authorization under Part 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 Part VII.G.2. shall 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

PART VII
DISCHARGE PERMIT NO. UT0023752

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;
 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 Part VII.M.2.
- 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 sections 19-5-117 and 510 of the CWA or any applicable Federal or State transportation regulations, such as but not limited to the Department of Transportation regulations.

PART VII
DISCHARGE PERMIT NO. UT0023752

- 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 C.F.R. § 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.

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 "LC₅₀").
5. "Annual Loading Cap" is the highest allowable phosphorus loading discharged over a calendar year, calculated as the sum of all the monthly loading discharges measured during a calendar year divided by the number of monthly discharges measured during that year.
6. "Average annual discharge limit" means maximum allowable average of monthly discharges over a calendar year, calculated as the sum of all monthly discharges measured during a calendar year divided by the number of monthly discharges measured during the year. The timeframe is defined as from January 1st to December 31st.
7. "Bypass" means the diversion of waste streams from any portion of a treatment facility.
8. "C.F.R. §," means Code of Federal Regulations Section(s)
9. "Chronic toxicity" occurs when the IC₂₅< XX% effluent. The XX% effluent is the concentration of the effluent in the receiving water, at the end of the mixing zone expressed as per cent effluent.
10. "IC₂₅" 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.

**PART VIII
DISCHARGE PERMIT NO. UT0023752**

11. "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;
 - 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.
12. "CWA" means The Federal Water Pollution Control Act, as amended, by The Clean Water Act of 1987.
13. "Daily Maximum" (Daily Max.) is the maximum value allowable in any single sample or instantaneous measurement.
14. "DWQ" means the Division of water Quality.
15. "Director" means Director of the Division of Water Quality.
16. "EPA" means the United States Environmental Protection Agency.
17. A "grab" sample, for monitoring requirements, is defined as a single 'dip and take' sample collected at a representative point in the discharge stream.
18. An "instantaneous" measurement, for monitoring requirements, is defined as a single reading, observation, or measurement.
19. "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.
20. "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.