

UTAH DIVISION OF WATER QUALITY

IN THE MATTER OF Payson City 439 West Utah Ave Payson, UT 84651 UPDES PERMIT NO. UT0020427	PERMIT VARIANCE FOR TECHNOLOGY-BASED PHOSPHORUS EFFLUENT LIMITS
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BACKGROUND

1. Payson City's ("Payson") wastewater treatment plant in Payson, Utah (the "Facility") provides wastewater services within Utah County.
2. Payson's operations at the Facility are undertaken subject to UPDES Discharge Permit No. UT0020427 ("Permit").
3. The Facility is required to achieve technology-based phosphorus effluent limits ("TBPEL") on or before January 1, 2020, unless a variance is granted. *See* UAC R317-1-3.3.
4. Payson submitted a variance request, received December 29, 2017 by the Utah Division of Water Quality ("DWQ"), seeking an extension of the TBPEL implementation date (the "Variance Request."). The Variance Request is based on the fact that Payson is in the process of evaluating numerous alternatives for a facility to meet the TBPEL requirement; however such improvements cannot be completed prior to January 1, 2020, despite Payson's diligence.
5. Utah law provides that DWQ may grant a variance as to the implementation date for compliance with the TBPEL in the event that the operator demonstrates due diligence toward construction of a treatment facility designed to meet TBPEL, provided that such compliance date shall not be later than January 1, 2025. *See* UAC R317-1-3.3.C.1.e.
6. The Director of DWQ has determined that Payson has met its burden to show diligence within the meaning of the UAC R317-1-3.3 and that a variance is appropriate, subject to the limitations and conditions provided herein.

AUTHORITY

7. The Director of DWQ has authority to grant a variance as to the implementation deadline for TBPEL pursuant to UAC R317-1-3.3 and the corresponding provisions of the Utah Water Quality Act.
8. The State of Utah administers the Utah Pollution Discharge Elimination System (UPDES) permit program under the Utah Water Quality Act.

DUE DILIGENCE – FINDINGS

9. The Variance Request included the following submissions, among others:

- a. Phosphorus Rule Extension, Payson City (December 26, 2017).
- b. Payson City Capital Facilities Plan, Aqua Engineering (2017).

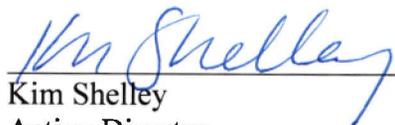
10. Based on the foregoing submissions, the Director has determined that Payson has established due diligence toward construction of Biological Phosphorus Removal treatment facility upgrade or facility replacement designed to meet TBPEL, within the meaning of UAC R317-1-3.3.C.1.e.

VARIANCE

11. The Director hereby grants Payson a variance as to the compliance date to achieve TBPEL, until the time that its facility improvements described in the Variance Request are operational, subject to the following conditions:

- a. This variance does not extend beyond January 1, 2024. Payson must comply with all TBPEL requirements by that date.
- b. Pursuant to UAC R317-1-3.3.C.2, this variance is subject to re-evaluation in the event that there is any substantive change in the facility design or construction plans provided in the Variance Request. Payson must provide timely notice to DWQ of any such substantive changes.
- c. By no later than May 1, 2019, Payson shall submit to DWQ a City Council resolution supporting the pursuit of the facility upgrade for the selected biological phosphorus removal technology. The resolution shall include the approximate budget for the facility upgrade. If Payson is not pursuing a biological phosphorus removal technology this variance will terminate.
- d. By no later than December 1, 2019, Payson shall submit to DWQ a complete Capital Facilities Plan with the recommended biological phosphorus removal technology.
- e. By no later than January 1, 2021, Payson shall submit to DWQ documentation of financial planning for the required facility upgrades. In addition, if rate increases are necessary Payson shall have passed the required rate increase resolution by no later than January 1, 2021.
- f. By no later than January 1, 2022, Payson shall submit to DWQ an approvable complete construction permit application per UAC R317-3 for new facilities that will biologically remove phosphorus to 1.0 mg/L or less.

- g. Beginning no later than July 1, 2019, and for every year thereafter while this variance is in effect, Payson agrees to submit to DWQ an annual report relating to its phosphorus discharges (the "Annual Report"). The scope of the Annual Report shall include descriptions of all projects and work necessary, in reasonable detail, to achieve compliance with the TBPEL rule. The Annual Report will provide a summary of progress and milestones achieved in all study, funding, planning, funding, design and construction projects during the previous reporting period, projected progress and milestones scheduled to be completed during the following reporting period, and if the project(s) are on schedule. The Annual Report will also provide information on effluent phosphorus concentrations to determine Payson's compliance with Parts 11.e. and 11.f. of this variance, noted below.
- i. The Annual Report must specifically state the **economic benefit per year** Payson will receive from January 1 to December 31 of the coming year from this due diligence variance for not treating total phosphorus to 1.0 mg/L.
- h. If it is found that Payson has failed to comply with the requirements of this variance toward the construction of biological phosphorus removal treatment facilities, the Division of Water Quality may terminate this variance.
- i. If this variance is terminated by the Division of Water Quality, Payson will be immediately expected to comply with the requirements UAC R317-1-3.3.
- i. No total phosphorus effluent limitation will be added to the Permit before January 1, 2020.
- j. Effective January 1, 2020, DWQ will impose the following interim effluent limitation under the Permit: total phosphorus annual average effluent limitation of 4.6 mg/L.


Kim Shelley
Acting Director
Utah Division of Water Quality

Date: October 10, 2018