
**BEFORE THE EXECUTIVE DIRECTOR
UTAH DEPARTMENT OF ENVIRONMENTAL QUALITY
DIVISION OF WATER QUALITY**

In the matter of:

**SUNNYSIDE COGENERATION
ASSOCIATES, CONSTRUCTION PERMIT,
SCA ASH LANDFILL (related to Permit
Number: UGW070002)(September 4, 2014)**

**ORDER ON MOTION TO
CONSOLIDATE (CONSTRUCTION
PERMIT)**

March 18, 2015

Administrative Law Judge Bret F. Randall

On December 28, 2014 Petitioner HEAL Utah filed a Motion to Consolidate Appeals relating to the above-referenced matter with a related matter, the appeal of a certain Ground Water Discharge Permit, No. UGW070002. The parties are the same for both matters but the permits relate to different subject matters and have been handled separately by the Division of Water Quality.

Respondents object to the Motion to Consolidate, pointing out the following factors:

1. The standard for issuing the permits is different.
2. The administrative records are different.
3. The comment periods are different.
4. The comments are different.
5. DWQ's responses to comments are different.
6. The requests for agency action and the responses are different.

Respondents also point out the risk that in a formal consolidation, there may be confusion as to the administrative record, including preservation and that consolidation may result in a *de facto* extension of the comment period for the Discharge Permit. Finally, Respondents note that because both permits are required before operations commence, a coordinated briefing is appropriate, as the parties have stipulated.

While consolidation may be warranted, I am persuaded that there are potentially important, substantive reasons for keeping these matters separate. I am persuaded to consolidate these matters for purposes of briefing and hearing on the merits, as the parties have already stipulated.

Based on the foregoing and good cause appearing therefor, it is hereby ordered that the Motion to Consolidate is denied, except that the two matters will be consolidated for purposes of briefing and hearing on the merits. I also request that in future pleadings, the parties include a parenthetical reference to the matter in all pleading captions (as noted above). Doing so should help us all keep the documents better organized.

Dated this 18th day of March, 2015.

ADMINISTRATIVE LAW JUDGE

/s/Bret F. Randall
Bret F. Randall, ALJ

MAILING CERTIFICATE

I hereby certify that on the 18th day of March, 2015, a true and correct copy of the foregoing **ORDER ON MOTION TO CONSOLIDATE (CONSTRUCTION PERMIT)** was served via electronic mail upon the following:

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/s/ Bret F. Randall, ALJ
