

Garden City
Bess Huefner
P.O. Box 207
Garden City, Utah
84028

Subject: DRAFT Approval 401 Water Quality Certification with Conditions.
401 Water Quality Certification No.: SPK 2015-00049.
USACE 404 Permit No.: SPK 2015-00049.

Applicant: Bess Huefner, City Council Member

Project: Bear Lake Garden City Ditch Maintenance.

Purpose: According to the applicant the purpose of the project is to remove deposited material from ditches allowing water to move freely to Bear Lake, Utah.

Location: Garden City sits on the west shores of Bear Lake in Rich County Utah. The project area is located in Township 14 North, Range 5 East, Section 21 and 28 of the Salt Lake Base and Meridian. The project area can be viewed on the USGS 7.5' topographic quadrangle Garden, Utah.

Watercourse: Bear Lake in Rich County, Utah.

Public Comment Period: (9/7/2015 – 10/5/2015).

Application date: 7/16/ 2015.

Dear Council Member Huefner:

Pursuant to Section 401 of the Federal Water Pollution Control Act, commonly known as the Clean Water Act (CWA), the Utah Department of Environmental Quality, Division of Water Quality (DWQ) certifies that Garden City has provided reasonable assurances that any discharge associated with the Bear Lake Garden City Ditch Maintenance Project (Project) will not violate surface water quality standards, or cause additional degradation in surface waters not presently meeting water quality standards. In accordance with Section 401(a)(1) of the CWA [33 U.S.C. Sec. 1341(a)(1)], DWQ hereby issues this 401 Water Quality Certification (Certification) provided the conditions outlined below are met and included in the U.S. Army Corps of Engineers (USACE) 404 nationwide permit SPK 2015-00049.

The affected portions of Bear Lake have the following default beneficial uses Utah Administrative Code (UAC R317-2-6):

Class 2A - Protected for frequent primary contact recreation where there is a high likelihood of ingestion of water or a high degree of bodily contact with the water. Examples include, but are not limited to, swimming, rafting, kayaking, diving, and water skiing;

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;

Class 4 - Protected for agricultural uses including irrigation of crops and stock watering.

The Utah's *Draft 2014 Integrated Report* listed Bear Lake as Category 2. Category 2 means that Bear Lake is not impaired and the assessed beneficial uses are supported.

The USACE is requested to include all of the conditions of this 401 Water Quality Certification (Certification) in the USACE 404 Individual Permit SPK 2015-00049.

Approval is hereby given to construct the Project under the following conditions.

1. Water quality standards in Bear Lake could be violated unless appropriate Best Management Practices (BMPs) are incorporated to minimize the erosion-sediment and nutrient load to any adjacent waters during project activities and operation of the facilities. Utah Code Annotated 19-5-114 requires that the Project and their subcontractors cannot increase water turbidity by 10 NTUs in Bear Lake and if violated shall immediately notify the Division of Water Quality.
2. The presence of algal blooms within the project area must immediately be reported to the Division of Water Quality (DWQ). These blooms maybe an indication of unnecessary nutrient loading and DWQ may re-review the Project Certification in accordance to condition #9.
3. Garden City and their subcontractors will ensure the Project will maintain a vegetated filter strip of no less than seventy-five (75) feet in length (strip) along each ditch that is influenced by direct upland surface water runoff. Possible examples of upland surface water run-off influenced ditches are project ditch #31, #35 and #24. The strip can be located anywhere along the ditch corridor and can have the bottom sediments removed to the desired ditch bottom elevation but must maintain the original vegetation five (5) feet on each ditch side from the center line of the ditch.
4. The legislatively-mandated fee for 2015 is \$90.00/hour, for review and issuance of the \$401 Water Quality Certification, per: <http://www.deq.utah.gov/FeesGrants/fees/docs/2014/03Mar/DEQFEEDOC15.pdf>, (see page 11). An invoice will be sent to you by Nov.1, 2015. Your payment is due within 30 days.
5. Garden City and their subcontractors shall not use any fill material which may leach organic chemicals (e.g., discarded asphalt) or nutrients (e.g., phosphate rock) immediately adjacent or into Lee Drain.
6. Garden City and their subcontractors shall coordinate the protection of riparian species, including migratory birds, within the project area with the U.S. Fish and Wildlife Service, Habitat Conservation Group and Utah Division of Wildlife Resources.
7. Garden City shall obtain the following permits from the Division of Water Quality prior to the construction phase of the project:
 - a. Construction activities that disturb one acre or more are required to obtain coverage under the Utah Pollutant Discharge Elimination System (UPDES) Storm Water General Permit for Construction Activities, Permit No. UTR300000. 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. A fact sheet describing the permit requirements and application procedures are located on our web site:

<https://secure.utah.gov/stormwater/main.html>

- b. Dewatering activities, if necessary during the construction, may require coverage under the UPDES General Permit for Construction Dewatering, Permit No. UTG070000. The permit requires water quality monitoring every two weeks to ensure that the pumped water is meeting permit effluent limitations, unless the water is managed on the construction site.
8. Garden City must acquire all necessary easements, access authorizations and permits to ensure they are able to implement the Project.
 9. §401 Certification Modification: Without limiting DWQ's discretion to take other actions in accordance with UAC R317-15, and, as applicable, 33 USC 1341, DWQ may modify the Certification to add, delete, or modify the conditions in this Certification as necessary and feasible to address:
 - a. Adverse or potentially adverse Project effects on water quality or designated beneficial uses that did not exist or were not reasonably apparent when this Certification was issued;
 - b. TMDLs;
 - c. Changes in water quality standards;
 - d. Any failure of Certification conditions to protect water quality or designated beneficial uses when the Certification was issued; or
 - e. Any change in the Project or its operations that was not contemplated by this Certification that might adversely affect water quality or designated beneficial uses.

Please contact Mr. Bill Damery at (801) 536-4354, wdamery@utah.gov with any questions you may have concerning this 401 Water Quality Certification with Conditions.

Sincerely,

Walter L. Baker, P.E.
Director.

WLB:WD:xx

cc: Hollis Jencks, USACE.

File: SPK 2015-00049.