DEPARTMENT OF ENVIRONMENTAL QUALITY

LOGAN CITY
Settlement Agreement, Docket No. M14-02

IN THE MATTER OF
LOGAN CITY
153 North 1400 West
Logan, Utah

DOCKET NUMBER M14-02
SETTLEMENT AGREEMENT

This SETTLEMENT AGREEMENT (hereinafter "AGREEMENT") is LOGAN CITY (hereinafter "OPERATOR") and the DIRECTOR OF THE DIVISION OF WATER QUALITY (hereinafter the "DIRECTOR"), concerning violations of the Utah Water Quality Act (the Act), Utah Code Annotated, and the Utah Administrative Code.

1. The DIRECTOR has authority to administer the Utah Water Quality Act, as amended 1953, (hereinafter the "ACT").

2. The UTAH DEPARTMENT OF ENVIRONMENTAL QUALITY (DEQ) has been delegated authority by the U.S. Environmental Protection Agency (EPA) to administer the National Pollutant Discharge Elimination System (NPDES) permit program under the Federal Clean Water Act (CWA).

3. The parties now desire to resolve this matter fully without further administrative proceedings except to the extent provided herein by entering into this AGREEMENT. Entering into this AGREEMENT is not an admission of liability or factual allegation set out in the NOTICE, nor is it an admission of or an agreement to any disputed facts or disputed legal theories, nor is it an admission of any violation of any law, rule, regulation or permit by the OPERATOR.

4. The DIRECTOR will administer the terms and provisions of this AGREEMENT.

5. This AGREEMENT resolves the NOTICE OF VIOLATION and ORDER, Docket Number M14-02 (hereinafter the "NOTICE"), between the OPERATOR and the DIRECTOR, issued to the OPERATOR on March 17, 2014, by the DIRECTOR. It does not in any way relieve the OPERATOR from any other obligation imposed under the Act or any other State or Federal laws.

6. The OPERATOR agrees to the following settlement terms:

   A. The OPERATOR agrees to pay a penalty in the amount of $100.00 within thirty (30) days of the effective date of this AGREEMENT by check made payable to the State of Utah delivered or mailed to:
B. The OPERATOR further agrees to fund the mitigation project, in the amount of $3,900 as a part of the penalty assessment pursuant to UAC R317-1-9.4. The mitigation project funds must be utilized by no later than one year from the effective date of this AGREEMENT.

1. The OPERATOR must submit within ninety (90) days of the effective date of this AGREEMENT for the DIRECTOR approval, a project implementation plan for each project that includes a detailed description of the mitigation project, a cost breakdown showing how the funds will be used, and a plan for implementation of the project, which shall include a time frame for implementation and completion of the project and submission of final document(s) indicating completion of the project. The implementation plan should also include a funding schedule which specifies who receives the mitigation funds and when.

2. The OPERATOR participation in the mitigation projects must fully adhere to UAC R317-1-9.4. The OPERATOR agrees not to attempt to gain or generate any positive publicity, and further agrees not to deduct or otherwise attempt to obtain a tax benefit from the foregoing funding of the mitigation projects.

3. Once a mitigation project is approved by the DIRECTOR, the OPERATOR will provided an update on the mitigation project every 90 days.

C. If the OPERATOR fails to fund the mitigation projects or fails to submit the outlines as described in Paragraph 6.B. above, or if the mitigation projects will not utilize the full funds allotted, the OPERATOR shall remit the remaining unspent funds as per the method and address in Paragraph 6.A. within thirty (30) days of demand to do so by the DIRECTOR.

D. The OPERATOR must submit all documentation to the DIRECTOR including receipts, once the funds have been spent for the approved mitigation project. This information must include who was paid, what the payment was for, and the dates of when the payment was made.

The penalty has been determined using the Penalty Criteria for Civil Settlement Negotiations, Utah Administrative Code ("UAC") R317-1-9 which considers such factors as the nature, severity and extent of the violations, history of noncompliance, degree of willfulness and/or negligence, good faith efforts to comply, and economic benefit.
Submittals required under this AGREEMENT shall be delivered or mailed to the Division of Water Quality, Department of Environmental Quality, 195 North 1950 West, P.O. Box 144870, Salt Lake City, Utah 84114-4870.

7. Nothing contained in this AGREEMENT shall preclude the DIRECTOR from taking additional actions to include additional penalties against the OPERATOR for permit violations not resolved by this AGREEMENT.

8. If an agreement between the OPERATOR and the DIRECTOR cannot be reached in a dispute arising under any provision of this AGREEMENT, then the OPERATOR or the DIRECTOR may commence a proceeding with the DEQ under the Administrative Procedures Act to resolve the dispute. A final decision in any adjudicative proceeding shall be subject to judicial review under applicable state law.

9. Nothing in this AGREEMENT shall constitute a waiver by the OPERATOR to raise in defense any legal or factual contention for future allegations of noncompliance.

10. Nothing in this AGREEMENT shall constitute or be considered as a release from any claims, to include natural resource damage claims, cause of action, or demand in law or equity which the STATE may have against the OPERATOR, or any other person, firm, partnership or corporation for any liability arising out of or relating in any way to the release of pollutants to waters of the State.

AGREED to this ____ day of _______________, 2015.

LOGAN CITY

By ____________________________
Authorized Agent

UTAH DIVISION of WATER QUALITY

By ____________________________
Director