

STATE OF UTAH
DIVISION OF WATER QUALITY
DEPARTMENT OF ENVIRONMENTAL QUALITY
SALT LAKE CITY, UTAH

AUTHORIZATION TO DISCHARGE UNDER THE
UTAH POLLUTANT DISCHARGE ELIMINATION SYSTEM (UPDES)

In compliance with provisions of the *Utah Water Quality Act, Title 19, Chapter 5, Utah Code Annotated ("UCA") 1953, as amended (the "Act")*,

PARK CITY MUNICIPAL CORPORATION

is hereby authorized to discharge from its drinking water/waste water treatment system associated with the **Spiro Mine Tunnel**, currently located at 1884 Three Kings Drive, in Park City, Summit County, Utah, to receiving waters named

McLEOD AND SILVER CREEK, THENCE THE WEBER RIVER

in accordance with discharge point, effluent limitations, monitoring requirements and other conditions set forth herein.

This permit shall become effective on 1 November 2014

This permit expires at midnight on 1 November 2019

Signed this 27 day of October, 2014.



Walter L. Baker, P.E.

Director

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I. DISCHARGE – LIMITATIONS AND REPORTING REQUIREMENTS

A. Description of Discharge Point

The authorization to discharge provided under this permit is limited to those outfalls specifically designated below as discharge locations. Discharges at any location not authorized under a Utah Pollutant Discharge Elimination System 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

Location of Discharge Point

001

Outfall 001 is a sample point for the Spiro Tunnel “Bulkhead” flow discharge water. This sample point is located at the discharge of the feed line of the “Bulkhead” flow from the Spiro Tunnel as it enters the Spiro Water Treatment Plant. This outfall is located at a latitude of 40° 39’ 39.14 ” N and a longitude of 111° 30’ 58.22” W. Samples collected at and/or near this location will be representative of flows between the tunnel and inside the Spiro Water Treatment Plant.

002

Outfall 002 is a sample point for the Spiro Tunnel “Portal” flow discharge water. This sample point is located at the discharge of the feed line of the “Portal” flow as it enters the Spiro Water Treatment Plant. This outfall is located at a latitude of 40° 39’ 39.14 ” N and a longitude of 111° 30’ 58.22” W. Samples collected at and/or near this location will be representative of flows between the tunnel and inside the Spiro Water Treatment Plant.

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 Monitoring Requirements.

1. Toxicity Limitations for Outfalls 001 and 002.

Effective on a schedule in accordance with the Stipulated Compliance Order, Docket # M14-01, incorporated by reference herein, there shall be no acute or chronic toxicity in the discharge as defined in *Part V.* and determined by test procedures described in *Part I.C.2 & 3* of this permit.

2. Discharge Limitations, Monitoring and Compliance Schedule.

The permittee is authorized to discharge from Outfall 001 and Outfall 002. **In accordance with the dates identified in the Stipulated Consent Order Docket #M14-01, Outfalls 001 and 002 will be subject to the discharge parameter limitations in Table 1 below. Monitoring and reporting only will be required during the duration of this permit term, at the frequencies shown in Table 2 below.**

Table 1, Future Effluent Limitations for Outfalls 001 and 002 ^{a/, b/}			
Parameter	Maximum Monthly Average	Daily Minimum	Daily Maximum
Total Recoverable Antimony, ug/l Based on human health criteria	5.6	NA	NA
Total Recoverable Arsenic, ug/l daily max based on 1C	NA	NA	10
Total Recoverable Cadmium, ug/l Based on 3A	.75	NA	8.7
Total Recoverable Selenium, ug/l Based on 3A	4.6	NA	18.4
Total Recoverable Thallium, ug/l Based on human health criteria	0.24	NA	NA
Total Recoverable Zinc, ug/l Based on 3A	388	NA	388
TSS, mg/l Based on Based on BPJ and secondary treatment standards	25	NA	35
pH, Standard Units Based on secondary treatment standards	NA	6.5	9.0
Dissolved Oxygen, mg/l Based on 3A	NA	5	NA
Chronic Biomonitoring	NA	NA	Pass/Fail

NA – Not Applicable.

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b/ During the duration of this permit the Judge Tunnel Pipeline (JTPL) will be completed, which will allow conveyance of Judge Tunnel water to the vicinity of the Spiro Treatment Plant. During this permit term and until completion of final treatment facilities at Spiro WTP, only de-minimus flows of Judge water may be discharged from the Spiro Treatment plant site and area. Such occasional discharges would be for treatment modeling and pilot testing purposes only.

Starting immediately and lasting throughout the permit term, Outfalls 001 and 002 are subject to the Self-Monitoring and Reporting Requirements in Table 2 below:

Table 2, Self-Monitoring and Reporting Requirements for Outfalls 001 and 002			
Parameter	Frequency	Sample Type	Units
Flow a/	Continuous	Recorder	MGD
Total Recoverable Antimony	Quarterly	Composite	ug/L
Total Recoverable Arsenic	Quarterly	Composite	ug/L
Total Recoverable Cadmium	Quarterly	Composite	ug/L
Total Recoverable Selenium	Quarterly	Composite	ug/L
Total Recoverable Thallium	Quarterly	Composite	mg/L
Total Recoverable Zinc	Quarterly	Composite	ug/L
TSS	Quarterly	Composite	mg/L
Dissolved Oxygen	Quarterly	Grab	mg/L
pH	Quarterly	Grab	Standard Units
Chronic Biomonitoring	2 tests in permit term ^{b/}	Grab	IC25 > 100% effluent Pass/Fail

a/ An estimated daily average flow over the reporting period shall be reported for each outfall.

b/ Two chronic WET tests will be performed during the permit term on effluent from a pilot scale treatment plant of representative effluent from the blended Judge and Spiro feedwaters. The blended feeds will be representative of actual ratios of feedwaters from the two tunnels that will result from the management configuration of the finished treatment project for both tunnel effluent streams. One WET test will be performed during the high flow Spring period and the other separated by approximately six months during the low flow Fall period. The chronic test will be run on the two species, Ceriodaphnia dubia (water flea) and Pimephales promelas (fathead minnow). The chronic WET tests will be done in accordance with Section I. 3. B). If toxicity is detected no further investigation or testing will be required during this permit period.

3. Chronic Whole Effluent Toxicity Testing.

The following procedural requirements in Section I. 3. are included to comply with the EPA requirement that permit limits must be included in permits where the compliance schedule will extend beyond the term of the permit.

a) *Whole Effluent Testing – Chronic Toxicity.*

Starting at the same time that future effluent limits are in effect, the permittee shall conduct quarterly chronic toxicity tests on a composite sample

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of the final effluent. The samples shall be collected at 001, and 002. If chronic toxicity is detected, the test shall be repeated in less than four weeks from the date the initial sample was taken. . If the second test shows no chronic toxicity, routine monitoring shall be resumed. A pattern of chronic toxicity is established if the second test (or two chronic tests in a row) show toxicity. The need for any additional samples, and/or a Preliminary Toxicity Investigation or a Toxicity Reduction Evaluation, (see *Part I.C.3.c*) shall be determined by the Director

The chronic toxicity tests shall be conducted in general accordance with the procedures set out in the latest revision of *Short-Term Methods for Estimating the Chronic Toxicity of Effluents and Receiving Water to Freshwater Organisms, 4th Edition, (EPA 821/R-02-13), October 2002* as per 40 CFR 136.3(a) *TABLE 1A-LIST OF APPROVED BIOLOGICAL METHODS*. Test species shall consist of Ceriodaphnia dubia and Pimephales promelas (fathead minnow). A CO₂ atmosphere may be used (in conjunction with an unmodified test) in order to account for artificial pH drift, as previously demonstrated to and authorized by the Director. Chronic toxicity occurs when the IC25 is less than or equal to an effluent concentration of 100%.. If any of the acceptable control performance criteria are not met, the test shall be considered invalid.

Quarterly test results shall be reported along with the Discharge Monitoring Report submitted for the end of the reporting calendar quarter (e.g., biomonitoring results for the calendar quarter ending March 31 shall be reported with the Discharge Monitoring Report due April 28, with the remaining biomonitoring reports submitted with Discharge Monitoring Report due each July 28, October 28, and January 28). All test results shall be reported along with the Discharge Monitoring Report submitted for that reporting period. The format for the report shall be consistent with the latest revision of the *Region VIII Guidance for Chronic Whole Effluent Reporting* and shall include all the physical testing as specified.

If the results for a minimum of ten consecutive tests indicate no chronic toxicity, the permittee may request a reduction in testing frequency and/or reduction to one species. The Director may approve, partially approve, or deny the request based on results and other available information. If approval is given, the modification will take place without a public notice.

The current Utah whole effluent toxicity policy is in the process of being updated and revised to assure its consistency with the Environmental Protection Agency's national and regional whole effluent toxicity policy. When said revised whole effluent toxicity policy has been finalized and officially adopted, this permit will be reopened and modified to incorporate satisfactory follow-up chronic toxicity language (chronic pattern of toxicity, preliminary toxicity investigation, toxicity identification evaluation and

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The current Utah whole effluent toxicity policy is in the process of being updated and revised to assure its consistency with the Environmental Protection Agency's national and regional whole effluent toxicity policy. When said revised whole effluent toxicity policy has been finalized and officially adopted, this permit will be reopened and modified to incorporate satisfactory follow-up chronic toxicity language (chronic pattern of toxicity, (preliminary toxicity investigation, toxicity identification evaluation and toxicity reduction evaluation, etc.) without a public notice, as warranted and appropriate.

- b) *Accelerated Testing.* When **toxicity** is indicated during routine biomonitoring as specified in this permit, the permittee shall notify the Director in writing within five (5) days after becoming aware of the test result. The permittee shall perform an accelerated schedule of biomonitoring to establish whether a pattern of toxicity exists as detailed above.
- c) *Preliminary Toxicity Investigation.*
- (1) When a pattern of toxicity is detected the permittee will notify the Director in writing within five (5) days and begin an evaluation of the possible causes of the toxicity. The permittee will have fifteen (15) working days from demonstration of the pattern to complete a Preliminary Toxicity Investigation and submit a written report of the results to the Director. The Preliminary Toxicity Investigation may include, but is not limited to, additional chemical and biological monitoring, examination of pretreatment program records, examination of discharge monitoring reports, a thorough review of the testing protocol, evaluation of treatment processes and chemical use, inspection of material storage and transfer areas to determine if a spill may have occurred, and similar procedures.
 - (2) If the Preliminary Toxicity Investigation identifies a probable toxicant and/or a probable source of toxicity the permittee shall submit, as part of its final results written notification of that effect to the Director. Within thirty (30) days of completing the Preliminary Toxicity Investigation the permittee shall submit for approval a control program to control effluent toxicity and shall proceed to implement such a plan within seven (7) days following approval. The control program, as submitted to or revised by the Director, may be incorporated into the permit.
 - (3) If no probable explanation for toxicity is identified in the Preliminary Toxicity Investigation, the permittee shall notify the Director as part of its final report, along with a schedule for conducting a Phase I Toxicity Reduction Evaluation (See *Part I.C.3.f, Toxicity Reduction Evaluation*).

- (4) If toxicity spontaneously disappears during the Preliminary Toxicity Investigation, the permittee shall submit written notification to that effect to the Director as part of the reporting requirements of paragraph a, of this section (*Whole Effluent Testing – Chronic Toxicity*).
- d) *Toxicity Reduction Evaluation.* If toxicity is detected during the life of this permit and it is determined by the Director that a Toxicity Reduction Evaluation is necessary, the permittee shall be so notified and shall initiate a Toxicity Reduction Evaluation immediately thereafter. The purpose of the Toxicity Reduction Evaluation will be to establish the cause of toxicity, locate the source(s) of the toxicity, and control or provide treatment for the toxicity.

A Toxicity Reduction Evaluation may include but is not limited to one, all, or a combination of the following:

- (1) Phase I – Toxicity Characterization
- (2) Phase II – Toxicity Identification Procedures
- (3) Phase III – Toxicity Control Procedures
- (4) Any other appropriate procedures for toxicity source elimination and control.

If the Toxicity Reduction Evaluation establishes that the toxicity cannot be immediately eliminated, the permittee shall submit a proposed compliance plan to the Director. The plan shall include the proposed approach to control toxicity and a proposed compliance schedule for achieving control. If the approach and schedule are acceptable to the Director, this permit may be reopened and modified.

If the Toxicity Reduction Evaluation shows that the toxicity is caused by a toxicant(s) that may be controlled with specific numerical limitations, the permittee may:

- (a) Submit an alternative control program for compliance with the numerical requirements.
- (b) If necessary, provide a modified biomonitoring protocol, which compensates for the pollutant(s) being controlled numerically.

If acceptable to the Director, this permit may be reopened and modified to incorporate any additional numerical limitations, a modified compliance schedule if judged necessary by the Director, and/or a modified biomonitoring protocol.

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Failure to conduct an adequate Toxicity Reduction Evaluation, or failure to submit a plan or program as described above, or the submittal of a plan or program judged inadequate by the Director, shall be considered a violation of this permit.

D. Reporting of Wastewater Monitoring Results.

1. Monitoring results obtained during the previous quarter shall be summarized for each quarter and reported on a DMR Form (EPA No. 3320-1), post-marked no later than the 28th day of the month following the completed reporting period. Lab sheets for biomonitoring must be attached to the biomonitoring Discharge Monitoring Report forms. If no discharge occurs during the reporting period, "no discharge" shall be reported. Legible copies of these, and all other reports shall be signed and certified in accordance with the requirements of *Signatory Requirements (Part V.G.)*, and submitted by NetDMR, or submitted to the Division of Water Quality at the following address:

Original to: Department of Environmental Quality
 Division of Water Quality
 195 North 1950 West
 PO Box 144870
 Salt Lake City, Utah 84114-4870

II. 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.

B. Monitoring Procedures.

Monitoring must be conducted according to test procedures approved under *Utah Administrative Code R317-2-10* unless other test procedures have been specified in this permit.

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 six months per violation, 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 *Utah Administrative Code R317-2-10* or as specified in this permit, the results of this monitoring shall be included in the calculation and reporting of the data submitted in the Discharge Monitoring Report Form. Such increased frequency shall also be indicated. Only those parameters required by the permit need to be reported.

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 must 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, 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, (801) 536-4300, or 24-hour answering service (801) 536-4123.
2. The following occurrences of noncompliance shall be reported by telephone (801) 536-4123 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 III.G, Bypass of Treatment Facilities.*);
 - c) Any upset which exceeds any effluent limitation in the permit (See *Part III.H, Upset Conditions.*);
 - d) Violation of a maximum daily discharge limitation for any of the pollutants listed in the permit; or,
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.

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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 II.H.3*.

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, collection, storage facilities or area, transport vehicles and containers.
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.
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.

III. COMPLIANCE RESPONSIBILITIES

A. Duty to Comply.

The permittee must 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 \$10,000 per day of such violation. Any person who willfully or negligently violates permit conditions or the *Act* is subject to a fine not exceeding \$25,000 per day of violation. Any person convicted under *Utah Code Annotated 19-5-115(2)* a second time shall be punished by a fine not exceeding \$50,000 per day. Except as provided at *Part III.G, Bypass of Treatment Facilities* and *Part III.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 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 *paragraph 2 and 3* of this section.
2. Prohibition of Bypass.
 - a) Bypass is prohibited, and the Director may take enforcement action against a permittee for bypass, unless:
 - 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 judgment to prevent a bypass which occurred during normal periods of equipment downtime or preventive maintenance, and
 - 3) The permittee submitted notices as required under *section III.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 *sections III.G.2.a (1), (2) and (3).*
 - c) The Director has approved the following categories of allowed infrequent bypasses, which meet the criteria identified in section III.G.2.a. if such bypasses will occur for no more than a cumulative 30 days in a calendar year. Any bypasses that exceed the 30 day cumulative maximum in a calendar year must be approved in writing by the Director in response to a written request by the permittee which fully documents the circumstances, cause and need for the bypass. Such bypasses must meet the criteria identified in Section III. G. 2.a). The permittee shall still comply with the notice requirements of Section III.G.2.a for any such bypasses:
 - (1) Bypass necessitated by mine tunnel collapse or other major incident affecting the mine tunnel or flow of water from it;
 - (2) Bypass necessitated by flooding caused by excessively high flows from mine tunnel;
 - (3) Bypass necessitated by demolition and construction necessary to install treatment facilities needed to meet final effluent or

drinking water standards; and

(4) Bypass necessitated by mine tunnel maintenance and repair.

3. Notice.

- a) Anticipated bypass. Except as provided above in *section III.G.2* and below in *section III.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 *section III.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 II.H*, Twenty Four Hour Reporting. The permittee shall also immediately notify the Director of the Department of Natural Resources, the public and downstream users and shall implement measures to minimize impacts to public health and environment to the extent practicable.

H. Upset Conditions.

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1. Effect of an upset. An upset constitutes an affirmative defense to an action brought for noncompliance with permit effluent limitations if the requirements of *Paragraph 2* of this section are met. Director's administrative determination regarding a claim of upset cannot 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 II.H, Twenty-four Hour Notice of Noncompliance Reporting*; and,
 - d) The permittee complied with any remedial measures required under *Part III.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 Water Quality Act of 1987* 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;

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- c) Five (5) times the maximum concentration value reported for that pollutant in the permit application in accordance with *Utah Annotated Code R317-8-3.5(7)* or (10); or,
 - d) The level established by the Director in accordance with *Utah Annotated Code R317-8-4.2(6)*.
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 *Utah Annotated Code R317-8-3.5(9)*; or,
 - d) The level established by the Director in accordance with *Utah Annotated Code R317-8-4.2(6)*.

K. Industrial Pretreatment.

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 Water Quality Act of 1987*, the permittee shall comply with all applicable federal General Pretreatment Regulations promulgated at *40 CFR 403*, the State Pretreatment Requirements at *Utah Annotated Code R317-8-8*, and any specific local discharge limitations developed by the Publicly Owned Treatment Works accepting the wastewaters.

In addition, in accordance with *40 CFR 403.12(p)(1)*, the permittee must notify the Publicly Owned Treatment Works, the EPA Regional Waste Management Director, and the State hazardous waste authorities, in writing, if they discharge any substance into a Publicly Owned Treatment Works which if otherwise disposed of would be considered a hazardous waste under *40 CFR 261*. This notification must include the name of the hazardous waste, the EPA hazardous waste number, and the type of discharge (continuous or batch).

IV. 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 the alteration or addition could significantly change the nature or increase the quantity of parameters discharged or pollutant sold or given away. This notification applies to pollutants, which are not subject to effluent limitations in the permit. In addition, if there are any planned substantial changes to the permittee's existing sludge facilities or their manner of operation or to current sludge management practices of storage and disposal, 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.

PART IV
DISCHARGE PERMIT NO. UT0025461

1. All permit applications shall be signed by either a principal executive officer or ranking elected official.
2. All reports required by the permit and other information requested by the Director shall be signed by a person described above or by a duly authorized representative of that person. A person is a duly authorized representative only if:
 - a) The authorization is made in writing by a person described above 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.
3. Changes to authorization. If an authorization under *paragraph IV.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 *paragraph IV.G.2* must 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 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.

PART IV
DISCHARGE PERMIT NO. UT0025461

I. Availability of Reports.

Except for data determined to be confidential under *Utah Annotated Code 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 paragraph 2 above.

N. State 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 *Utah Code Annotated 19-5-117*.

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 revision to the current Water Quality Management Plan is approved and adopted which calls for different effluent limitations than contained in this permit.

P. Toxicity Limitation - Reopener Provision.

This permit may be reopened and modified (following proper administrative procedures) to include whole effluent toxicity testing, a whole effluent toxicity 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.

Q. Storm Water-Reopener Provision.

At any time during the duration (life) of this permit, this permit may be reopened and modified (following proper administrative procedures) as per *Utah Annotated Code R317.8*, to include, any applicable storm water provisions and requirements, a storm water pollution prevention plan, a compliance schedule, a compliance date, monitoring and/or reporting requirements, or any other conditions related to the control of storm water discharges to "waters-of-State".

V. DEFINITIONS

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. "Bypass," means the diversion of waste streams from any portion of a treatment facility.
5. "Chronic toxicity" occurs when the inhibitory concentration to 25% of the population (IC25) is less than or equal to 100% effluent.
6. "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.

PART V
DISCHARGE PERMIT NO. UT0025461

7. "CWA," means *The Federal Water Pollution Control Act*, as amended, by *The Clean Water Act of 1987*.
8. "Daily Maximum" (Daily Max.) is the maximum value allowable in any single sample or instantaneous measurement.
9. "EPA," means the United States Environmental Protection Agency.
10. "Director," means Director of the Utah Water Quality Board.
11. A "grab" sample, for monitoring requirements, is defined as a single "dip and take" sample collected at a representative point in the discharge stream.
12. An "instantaneous" measurement, for monitoring requirements, is defined as a single reading, observation, or measurement.
13. "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.
14. "Upset," means an exceptional incident in which there is unintentional and temporary noncompliance with 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.

**FACT SHEET/STATEMENT OF BASIS
PARK CITY MUNICIPAL CORPORATION
UPDES PERMIT NO. UT-0025461
SPIRO TUNNEL
NEW PERMIT
MAJOR INDUSTRIAL**

FACILITY CONTACT

Clint McAfee, P.E.
Water and Streets Director
1053 Iron Horse Drive
P.O. Box 1480
Park City, Utah 84060-1480
(435) 615-5339

DESCRIPTION AND PAST HISTORY OF THE FACILITY

The Spiro Tunnel was built in the early 1900s to drain the mine workings on the west side of Park City.¹ Park City Municipal Corporation or “Park City” holds an easement for the installation, operation and maintenance of a municipal water system within a portion of Spiro Tunnel. Park City currently operates the portion of the Spiro Drain Tunnel as a source for potable water for the city. The current drinking water treatment facility is located at 1884 Three Kings Drive, in Park City, Summit County, Utah.

The Spiro Drain Tunnel water originates from two sources within the tunnel, “portal water” and “bulkhead water”. The water referred to as “portal water” flows freely over a bulkhead, located 13,000 feet back in the tunnel, onto the tunnel floor where it converges with other seeps and flows along the length of the tunnel and is collected in a pipeline about 300 feet from the tunnel portal. ‘Bulkhead water’ is collected in a pipeline at the bulkhead and then flows through a closed pipeline separated from the portal water. The combined portal and bulkhead water flow averages roughly 4,400 gallons per minute, or approximately 6.3 million gallons a day. The water is piped into splitter boxes where the water is split to the Spiro Water Treatment Plant (Spiro WTP) and into either the East Canyon Creek or Silver Creek drainages via the golf course ditch system and McLeod Creek.

Water discharged from a mine is considered a “point source” as defined by the “Clean Water Act.” The operator of the point source is required to get a National Pollutant Discharge Elimination System permit, (known in Utah as Utah Pollutant Discharge Elimination System permit or “UPDES” permit). *Utah Administrative Code R317-8-3.1 (3)*. Park City submitted its application for an UPDES permit in July 2011 and updated the application in February 2012.

¹ D. Hampshire, M. Bradley, A. Roberts, A History of Summit County(1998, Utah State Historical Society, Summit County Commission, IBSN: 0-913738-46-8, <http://utahhistory.sdlhost.com/#!/item/000000011019560/view>) at page 321.

BACKGROUND AND PURPOSE OF THE PERMIT

To bring the Spiro Tunnel discharge into compliance with *Utah Administrative Code R317-2-14* will take significant time and money due to the scope and extent of the challenges facing Park City, both from a UPDES and Drinking Water program perspective. Along with the complex issues associated with the Spiro Tunnel discharge, the challenges are compounded due to similar issues associated with the Judge Tunnel mine drain discharge. The Spiro Tunnel is approximately 2.3 miles from the Judge Tunnel portal. Park City will likely have to change its present management of the discharge, through movement of the outfalls and/or implementation of treatment of the discharge. As such, outfall configurations and monitoring requirements may change in future permits. All of this will involve complex decisions with regard to treatment, management, and funding issues to come into compliance with the proposed final permit effluent limits contained herein.

Park City has elected to achieve UPDES compliance for the Spiro Tunnel in accordance with an "Integrated Plan" consistent with EPA's May 2012 *Integrated Municipal Stormwater and Wastewater Planning Approach Framework* ("*Integrated Framework*)," which would allow an extended period of time to come into compliance with final effluent limits. The Division of Water Quality has concurred that the use of an Integrated Framework would be appropriate to achieve compliance.

Compliance with final effluent limits will be achieved in the future for Outfalls 001 and 002 on a schedule as detailed in the companion Stipulated Compliance Order, Docket No. M14-01. The compliance schedule was placed in this separate document in order to facilitate coordination of compliance of multiple schedules in multiple UPDES permits for Park City.

In accordance with the May 10, 2007 EPA Memorandum: "*Compliance Schedules for Water Quality Based Effluent Limitations in NPDES Permits*", effluent limits must be put into permits where the compliance schedule may extend beyond the permit term. As such, the anticipated future final limits for the Spiro Tunnel discharges are included in this permit. Inclusion of the limits in this permit will also serve the purpose of designating discharge water quality levels for future treatment design considerations.

The function of this permit, during its term, is to monitor the quantity and quality of the "Portal" and "Bulkhead" discharges from the Spiro Tunnel separately, to better characterize the qualities of each for future treatment process design considerations. As such, the frequency of required monitoring for these discharges is appropriate for such characterization. The frequency of monitoring in a future permit, when effluent limits become effective, would likely increase, to ensure compliance.

During the duration of this permit the Judge Tunnel Pipeline (JTPL) will be completed, which will convey Judge Tunnel water to the vicinity of the Spiro Water Treatment Plant or "SWTP". It is Park City's goal to utilize Judge Tunnel water as soon and as much as possible, although realizing this goal is dependent on many factors not within Park City's control, including future drinking water quality standards, the water chemistry in the area, and changes inside the mining tunnels. If Park City determines the existing treatment process at SWTP to be suitable to meet Park City's drinking water goals with minor modifications, and drinking water standards, water characteristics and operational conditions remain favorable, Park City may elect to treat a portion of Judge water for drinking water use at the existing SWTP at any time. During this permit term

and until completion of final treatment facilities at the SWTP, only de-minimus flows of Judge water may be discharged from the SWTP site and area. Such occasional discharges would be for treatment modeling and pilot testing purposes only.

A Total Maximum Daily Load or "TMDL" study on cadmium and zinc for Silver Creek was approved by EPA on August 4, 2004. The primary source areas for these pollutants are mining-related tailings within and along the stream channel. The TMDL identified specific source areas located in four stream reaches. Reach 1 (Above Park City) includes the Judge and Spiro mine tunnels and mine-related tailings. The TMDL estimated the contribution of zinc from the Spiro Tunnel to be less than 300 pounds per year, while the total zinc load from all reaches was calculated to be 37,146 pounds per year. Because Spiro was determined to be a minor contributor of zinc and cadmium, the TMDL did not calculate a specific load allocation for this source. Rather, the TMDL recommended the use of best management practices (BMPs) and a recalculation of the load limits once a 75% load reduction from the legacy mine tailings was achieved. Significant reductions from the non-point sources have been achieved and remedial activities are currently ongoing in the Silver Creek watershed. The timing of the permit and compliance schedule is in alignment with the goals of the TMDL.

Silver Creek was listed in Utah's 2008 303(d) list for arsenic and total dissolved solids. A TMDL has not yet been completed for these constituents. A quantitative reasonable potential analysis conducted for these constituents in the Spiro Tunnel discharge found reasonable potential to exceed water quality standards for arsenic, but not for total dissolved solids. As such, only arsenic will be added to the permit.

DESCRIPTION OF OUTFALLS 001 and 002

Outfall 001 is a sample point for the Spiro Tunnel "Bulkhead" flow discharge water. This sample point is located at the discharge of the feed line of the "Bulkhead" flow from the Spiro Tunnel as it enters the Spiro Water Treatment Plant. Outfall 002 is a sample point for the Spiro Tunnel "Portal" flow discharge water. This sample point is located at the discharge of the feed line of the "Portal" flow as it enters the Spiro Water Treatment Plant.

These outfalls are located at a latitude of 40° 39' 39.14 " N and a longitude of 111° 30' 58.22" W. Samples collected at and/or near this location will be representative of flows between the tunnel and inside the Spiro Water Treatment Plant.

These outfall configurations are not consistent with those specified in the Park City UPDES application of February 7, 2012, but were subsequently agreed upon during permit development.

The outfalls identified in this permit will need to be modified in accordance with the construction of treatment processes associated with the Spiro Tunnel waters in a future permit version. These new outfalls will reflect the treated waters discharged from the Spiro water treatment plant to the identified receiving waters of McLeod and Silver Creeks.

RECEIVING WATERS AND STREAM CLASSIFICATION

The receiving streams are McLeod Creek and Silver Creek, thence the Weber River. Under *Utah Administrative Code R317-2-6*, the beneficial use designations for McLeod Creek and Silver Creek and the Weber River are *1C, 2B, 3A and 4*.

Class 1C - Protected for domestic use purposes, with prior treatment by processes as required by the Utah Division of Drinking Water.

Class 2B - Protected for secondary contact recreation such as boating, wading, or similar uses.

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.

BASIS FOR EFFLUENT LIMITATIONS, OUTFALLS 001 AND 002

The discharge from the Spiro Tunnel and Thiriot Springs are the dominant flows in the headwaters of McLeod Creek. Therefore, even with dilution of Thiriot Springs, the stream standards for certain heavy metals and other parameters are not being met under *Utah Administrative Code R317-2-14, Numeric Criteria for Aquatic Wildlife, Numeric Criteria for Human Health Standards, and Numeric Criteria Irrigation Standards*.

Reasonable Potential Analysis

Park City has collected a number of water quality samples from the Spiro Tunnel discharge. Samples were analyzed for the following constituents: aluminum, antimony, arsenic, barium, beryllium, cadmium, chromium, copper, cyanide, hexavalent chromium, trivalent chromium, iron, lead, magnesium, mercury, nickel, selenium, silver, zinc, thallium, strontium, tritium, total uranium, uranium-234, uranium-235, uranium-238, radium, gross alpha, gross beta, total biochemical oxygen demand, calcium, total suspended solids, total dissolved solids, turbidity, hardness, E. Coli, nitrate, and phosphorus. A hardness of 400 mg/l was used to determine the applicable hardness-dependent water quality standards, as measured values exceeded the 400 mg/l maximum as outlined in R317-2-14, Utah Water Quality Standards.

A quantitative reasonable potential analysis (RP) was performed on each of the above constituents to determine if there was reasonable potential for the discharge to exceed the applicable water quality standards. Based on the RP analysis, the following parameters exceeded the most stringent chronic water quality standard or were determined to have a reasonable potential to exceed the standard: antimony, arsenic, cadmium, selenium, thallium, and zinc.

The flow at the discharge point consists entirely of the Spiro Tunnel flow. As a result, no dilution/mixing zone was used in developing water quality standards for proposed effluent limits and reasonable potential analysis. End of pipe standards were applied.

The basis for the final effluent limitations for the following parameters for Outfalls 001 and 002: antimony, arsenic, cadmium, selenium, dissolved oxygen, thallium and zinc are the Utah Water Quality Standards for the receiving waters. All the above limitations were subject to the EPA Region 8 model “reasonable potential analysis” which determined that these pollutants in the discharge have a reasonable potential to violate water quality. The limitations on pH and total suspended solids in all outfalls are based on *Utah Secondary Treatment Standards, Utah Administrative Code R317-1-3.2*.

The monitoring requirements for Outfalls 001 and 002 are based on the permit writer’s best professional judgment as to the optimum frequency for long-term characterization of the quality of the discharge water.

EFFLUENT LIMITATION AND MONITORING REQUIREMENTS

In accordance with the May 10, 2007 EPA Memorandum: “Compliance Schedules for Water Quality Based Effluent Limitations in NPDES Permits”, which requires that effluent limits must be put into permits where the compliance schedule may extend beyond the permit term, final limits are included in this permit. **These limits will come into effect in the future, as required in the companion document, Stipulated Consent Order (SCO) Docket No. M14-01, as explained below. The schedule for compliance with these limits is contained in the separate SCO to facilitate coordination of the compliance schedules for multiple UPDES permits. During the duration of this permit term and future permit terms within the compliance periods outlined in the SCO, monitoring only will be required at the frequencies shown in Table 2.**

The limits included in this permit represent water quality targets to enable future treatment process design. These limits may be subject to revision in the future, should new information become available, or site conditions change.

Table 1, Future Effluent Limitations for Outfalls 001 ^{a/b/} and 002 ^{a/b/}			
Parameter	Maximum Monthly Average	Daily Minimum	Daily Maximum
Total Recoverable Antimony, ug/l Based on human health criteria	5.6	NA	NA
Total Recoverable Arsenic, ug/l Monthly average based on human health criteria, daily max based on 1C	NA	NA	10
Total Recoverable Cadmium, ug/l Based on 3A	.75	NA	8.7
Total Recoverable Selenium, ug/l Based on 3A	4.6	NA	18.4
Total Recoverable Thallium, ug/l Based on human health criteria	0.24	NA	NA
Total Recoverable Zinc, ug/l	388	NA	388

Based on 3A			
TSS, mg/l Based on Based on BPJ and secondary treatment standards	25	NA	35
pH, Standard Units Based on secondary treatment standards	NA	6.5	9.0
Dissolved Oxygen, mg/l Based on 3A	NA	5	NA
Chronic Biomonitoring	NA	NA	Pass/Fail

NA – Not Applicable.

a/ Final effluent limitations for Outfalls 001 and 002 will become effective in a future permit in accordance with the Stipulated Compliance Order, Docket #M14-01.

b/ During the duration of this permit the Judge Tunnel Pipeline (JTPL) will be completed, which will allow conveyance of Judge Tunnel water to the vicinity of the Spiro Treatment Plant. During this permit term and until completion of final treatment facilities at Spiro WTP, only deminimus flows of Judge water may be discharged from the Spiro Treatment plant site and area. Such occasional discharges would be for treatment modeling and pilot testing purposes only.

Starting immediately and lasting throughout the permit term, Outfalls 001 and 002 are subject to the Self-Monitoring and Reporting Requirements in Table 2 below:

Parameter	Frequency	Sample Type	Units
Flow a/	Continuous	Recorder	MGD
Total Recoverable Antimony	Quarterly	Composite	ug/L
Total Recoverable Arsenic	Quarterly	Composite	ug/L
Total Recoverable Cadmium	Quarterly	Composite	ug/L
Total Recoverable Selenium	Quarterly	Composite	ug/L
Total Recoverable Thallium	Quarterly	Composite	mg/l
Total Recoverable Zinc	Quarterly	Composite	ug/L
TSS	Quarterly	Composite	mg/L
Dissolved Oxygen	Quarterly	Grab	mg/l
pH	Quarterly	Grab	Standard Units
Chronic Biomonitoring	2 tests in permit term ^{b/}	Grab	IC25 > 100% effluent Pass/Fail

a/ An estimated daily average flow over the reporting period shall be reported for each outfall.

b/ Two chronic WET tests will be performed during the permit term on effluent from a pilot scale treatment plant of representative effluent from the blended Judge and Spiro feedwaters. The blended feeds will be representative of actual ratios of feedwaters from the two tunnels that will result from the management configuration of the finished treatment project for both tunnel effluent streams. One WET test will be performed during the high flow Spring period and the other separated by approximately six months during the low flow Fall period. The chronic test will be run on the two species, Ceriodaphnia dubia (water flea) and Pimephales promelas (fathead minnow). The chronic WET tests will be done in accordance with Section I. 3. B). If toxicity is detected no further investigation or testing

will be required during this permit period.

ANTI-DEGRADATION REVIEW

Under *Utah Administrative Code R317-2-3.5.8.d.*, an *Anti-degradation Level II Review* will be required by the Director of the Division of Water Quality for discharges to waters with a *Class 1C drinking water use assigned*. Since Park City is discharging into a *Class 1C drinking water source*, Park City must conduct an *Anti-degradation Level II Review*. Park City has submitted a *Level II ADR* with a partial alternatives analysis for the purposes of this permit. This review will help Park City decide what the City needs to do to come into compliance with the effluent limitations, and is part of the 'Stipulated Compliance Order'. More complete alternatives' analyses and updated ADRs, if needed, will be submitted by Park City at a future time as specified in the Stipulated Compliance Order.

REPORTING

The permit will require reports to be submitted quarterly on Discharge Monitoring Report forms or by NetDMR electronically for each quarterly reporting period, all due by the 28th day of the month following the reporting period. Lab sheets for biomonitoring must be attached to the biomonitoring Discharge Monitoring Report forms.

STORM WATER

According to *Utah Administrative Code R317-8-3.9* this facility will not be required to maintain coverage under the UPDES multi-sector general permit for discharges associated with industrial activity, permit number *UTR000000*, sector *G (Mineral Industry, SIC Major Group 10)*. This is because the storm water will not likely come in contact with, or be contaminated by any overburden, raw material, intermediate product, finished product, by product, or waste product located on the site of the operation.

BIOMONITORING REQUIREMENTS

A nationwide effort to control toxic discharges where effluent toxicity is an existing or potential concern is regulated in accordance with the State of Utah Permitting and Enforcement Guidance Document for Whole Effluent Toxicity (WET) Control (biomonitoring). Authority to require effluent biomonitoring is provided in Permit Conditions, *Utah Administrative Code R317-8-4.2*, Permit Provisions, *Utah Administrative Code R317-8-5.3* and Water Quality Standards, *Utah Administrative Code R317-2-5* and *R317-2-7.2*.

Since the Spiro Tunnel discharges are to drinking water source (*Class 1C*), and a cold water fishery (*Class 3A*) waters, and the current effluent concentration of a few parameters appear unable to meet the effluent limitations for Table 1, there is reasonable potential for toxicity to exist in the discharge of Outfalls 001 and 002. However, the expected chemistry of the effluent is expected to change in the future as this discharge may be combined with another water source (Judge Tunnel) and/or treatment may be provided. Data collected on chronic WET testing, which would be a report only requirement during this permit term based on the SCO, will be conducted during pilot testing of Spiro and/or a combination of Judge and Spiro waters. This testing will be for two species, *Ceriodaphnia dubia* (water flea) and *Pimephales promelas* (fathead minnow) conducted for each test as detailed in the permit. No additional follow—up

testing process will be required during this permit term.

Although they won't go into effect during this permit term, the requirements for a full chronic WET testing process are also included in this permit to conform to the EPA requirement that all future permit limits must be included in permits where the compliance schedules will extend beyond the permit term. At this time acute WET testing is not considered to be necessary in future permits, however, use of acute WET testing may be considered in future permits if the need for such testing is identified.

As this project will likely include a long term compliance schedule, it is recommended that such similar abbreviated WET testing be conducted at the beginning of each five-year permit cycle to track long term trends in toxicity, until more rigorous testing may be required when the full effluent limits become effective.

PERMIT DURATION

It is recommended this permit be effective for the duration of five (5) years from the effective date of issuance.

Drafted by:
John Kennington, Engineering Manager
Utah Division of Water Quality
August 26, 2014

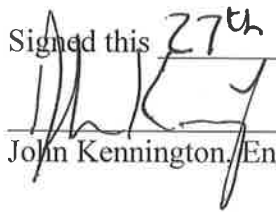
PUBLIC NOTICE

Began: August 30, 2014
Ended: September 30, 2014

Public Noticed in the Park Record August 30, 2014

A single comment was received during the public notice period requesting a listing of the specific constituents on which reasonable potential analysis was conducted. This detail was added to the Statement of Basis/Fact Sheet. The additional information was of a clarifying/informational nature and did not warrant any substantive changes to the permit.

Signed this 27th day of October, 2014.



John Kennington, Eng. Mgr.

UTAH DIVISION OF WATER QUALITY



IN THE MATTER OF Judge Tunnel and Spiro Tunnel UPDES Park City Municipal Corporation 445 Marsac Ave. P.O. Box 1480 Park City, Utah	DOCKET NUMBER M14-01 STIPULATED COMPLIANCE ORDER
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PURPOSE

1. The purpose of this **STIPULATED COMPLIANCE ORDER** (“**AGREEMENT**”) is to specify a compliance schedule for the **PARK CITY MUNICIPAL CORPORATION** (“**OPERATOR**”) to come into full compliance with the final effluent limits that will be in the Utah Pollutant Discharge Elimination System (“**UPDES**”) discharge permits for the Judge Tunnel and Spiro Tunnel, UPDES permits #UT0025925 and #UT0025941. The permits and this **AGREEMENT** are expected to be finalized concurrently, subject to public comment and other requirements of the Utah Water Quality Act, Title 19 Chapter 5 of the Utah Code (“**ACT**”), and Rule 317 of the Utah Admin. Code and other applicable law. The compliance schedule extends beyond the expiration dates of the permits. This **AGREEMENT** is expected to be incorporated by reference into the permits and into future renewal permits.

AUTHORITY

2. The **DIRECTOR** of the **UTAH DIVISION OF WATER QUALITY** (“**DIVISION**”) is authorized to issue, continue in effect, renew, revoke, modify or deny discharge permits and to issue orders in accordance with Section 19-5-106, and to specify a schedule of compliance in a permit leading to compliance with the **ACT** pursuant to Rule 317-8-5.2.
3. The **DIVISION** was created to administer the **ACT** under the immediate direction and control of the **DIRECTOR** pursuant to Section 19-1-105 of the Utah Code.
4. The State of Utah 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), known in Utah as UPDES.

FINDINGS

5. **OPERATOR** operates a municipal water system in Park City, Utah. Under certain agreements with the owner of historic mine tunnels, known as the Judge Tunnel and Spiro

Tunnel, **OPERATOR** manages the water draining from the Judge Tunnel and Spiro Tunnel, to provide domestic water to its water system customers. Excess tunnel waters are discharged into adjacent water courses, including Empire Canyon Creek and the Spiro North and East ditches. These waters eventually discharge into McLeod, East Canyon and Silver Creeks. *See Park City February 7, 2012, updated application for a UPDES permit in the administrative record.*

6. As of 2009, EPA Region 8 and the **DIVISION** have directed **OPERATOR** to obtain UPDES permits for Judge Tunnel and Spiro Tunnel. In July 2011, **OPERATOR** submitted initial applications to the **DIVISION** for UPDES permits at each source. The **OPERATOR** has requested compliance schedules to come into compliance with the final effluent limits that will be established in the UPDES permits. Pursuant to Rule 317-8-5.2, a “permit may, when appropriate, specify a schedule of compliance leading to compliance. . .” with the **ACT**. The purpose of this **AGREEMENT** is to specify compliance schedules that will be incorporated into the UPDES permits.

7. On June 5, 2012, EPA issued the *Integrated Municipal Stormwater and Wastewater Planning Approach Framework* (“*Integrated Framework*”) dated May 2012. The *Integrated Framework* allows a municipality to identify its relative priorities for infrastructure projects required by the Clean Water Act, balancing human health and water quality impacts with financial capability. A copy of the *Integrated Framework* is in the administrative record.

8. **OPERATOR** represents that compliance schedules are appropriate to meet permit effluent limits at Judge Tunnel and Spiro Tunnel, because the complex nature of the water sources, the existing water system, local conditions and climate, and financial constraints require time to develop a plan to treat each source, as needed, including time to analyze the feasibility and desirability of integrating treatment for the sources. **OPERATOR** has also represented that compliance will require **OPERATOR** to construct several miles of pipeline through challenging mountain town topography and treatment systems for some or all of the sources and that **OPERATOR** requires time to raise funds through water rate increases to acquire land, design, construct and operate treatment facilities.

9. **OPERATOR** represents that it will develop and implement a plan under the *Integrated Framework*, generally, by addressing discharges at the Judge Tunnel first, completing a Sampling and Analysis Plan and water quality modeling and other studies to characterize the Spiro Tunnel watershed, and conducting engineering feasibility analysis on integrating Judge Tunnel and Spiro Tunnel water sources for treatment, distribution and discharge in the vicinity of Spiro Tunnel, including potentially expanding the capacity and upgrading the process of the existing Quinns Junction Water Treatment Plant (“*QJWTP*”) or Spiro Water Treatment Plant (“*SWTP*”) as may be required by an integrated approach. *See OPERATOR’s Expanded Draft Outline for Park City Municipal Corporation Integrated NPDES Plan* in the administrative

record. **OPERATOR's** *Expanded Draft Outline for Park City Municipal Corporation Integrated NPDES Plan* is modeled after EPA's *Integrated Framework*. The *Expanded Draft Outline for Park City Municipal Corporation Integrated NPDES Plan* describes the water quality improvements expected from addressing the Judge Tunnel and the financial capability of the **OPERATOR** to address the discharges in total, especially Spiro Tunnel, which is anticipated to be the most costly source due to its size and importance to **OPERATOR'S** water system. The **OPERATOR** has also represented that the activities and facilities contemplated by **OPERATOR** to achieve compliance with UPDES permit requirements are expected to be costly (tens of millions of dollars), are expected to have a significant permanent impact on **OPERATOR'S** construction, operation, maintenance, and replacement expenses far into the future, and will be funded entirely by existing and future water rate payers. **OPERATOR** has represented that it anticipates significant annual water rate increases for several years to pay for the required new facilities. The **OPERATOR** has also represented that the compliance schedules will allow the **OPERATOR** to both mitigate the financial impacts of many years of significant water rate increases and reduce pollutant loading in the Silver Creek, McLeod Creek and East Canyon watersheds from the Spiro and Judge Tunnel discharges. The financial representations of the **OPERATOR** are also in the **OPERATOR's** May 23, 2013 *Analysis of the Financial Impact of Alternative UPDES Compliance Schedules with 12-30-13 updated Table 10* in the administrative record.

10. The **DIRECTOR** finds there is adequate support in the administrative record as described above to reasonably find that the compliance schedule will lead to compliance with the effluent limitations that will be in the permits to meet water quality standards by the end of the compliance schedule, that the compliance schedule is appropriate given the circumstances, that compliance will be achieved as soon as possible, and that the **OPERATOR** cannot immediately comply with the final effluent limits that will be in the permits.

AGREEMENT

11. **THE DIRECTOR HEREBY ORDERS** and the **OPERATOR** agrees to the following compliance schedules:

Final Park City Municipal Corporation Integrated NPDES Plan

A. No later than December 31, 2015, **OPERATOR** agrees to complete and submit to the **DIVISION** for approval, the *Park City Municipal Corporation Integrated NPDES Plan* ("*Integrated Plan*"). The scope of the *Integrated Plan* shall include descriptions of all projects and work necessary, in as much detail as is known at the time, to bring all surface water discharges from the Judge and Spiro Tunnels into compliance with their associated UPDES permits, with schedules and deadlines consistent with those in this **AGREEMENT**. The *Integrated Plan* shall be modeled after the *Integrated Municipal*

Stormwater and Wastewater Planning approach Framework attached to the June 5, 2012 memorandum from EPA Administrators Nancy Stoner and Cynthia Giles.

Through the end of the term of this **AGREEMENT**, **OPERATOR** agrees to submit to the **DIVISION** combined routine *Integrated Plan and construction project* updates and addenda every April 1 and October 1 when project construction is in progress, and annually on October 1, when project construction is not in progress. The reports, at a minimum, will document any changes or updates to the *Integrated Plan*, a summary of progress and milestones achieved in all construction, study and design 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 reports will also include any revisions to the **OPERATOR**'s Level II Antidegradation Review for the Judge and Spiro Tunnel discharges, if needed.

Judge Tunnel Pipeline and Empire Tank and Site Improvements

B. No later than 30 days after the execution of this **AGREEMENT**, **OPERATOR** agrees to submit to the **DIVISION** a complete, detailed scope of work and engineering and construction plans for the Empire Tank discharge site improvements, and a pipeline from the vicinity of the Judge Tunnel portal to the vicinity of the SWTP. **OPERATOR** agrees to complete this construction by November 1, 2015.

C. No later than December 31, 2017, **OPERATOR** agrees to submit to the **DIVISION** a detailed engineering and financial analysis of the options for compliance with the effluent limits for water from the Judge Tunnel identified in the Judge permit. This analysis shall include the identification of **OPERATOR**'S intended option for treatment of water from the Judge Tunnel, as well as an assessment of feasible options to minimize bypass for reasonably foreseeable bypass scenarios.

1. If **OPERATOR** determines in the December 31, 2017 analysis above that the best means of treating Judge Tunnel water to meet effluent limits would be to send the water to and treat it at the QJWTP (hereinafter, "QJWTP Solution"), it shall provide, no later than December 31, 2018, a complete, detailed scope of work and engineering and construction plans for the construction of the continuation of the Judge Tunnel pipeline from the vicinity of the SWTP to the QJWTP, expansion of the capacity of the QJWTP and upgrades to the treatment capability of QJWTP to include options such as dewatering to remove solids filtered from Judge Tunnel water, **OPERATOR** agrees to comply with Paragraph 11.D of this **AGREEMENT** (collectively, "the QJWTP solution").

2. If **OPERATOR** determines in the December 31, 2017 analysis that treatment of Judge Tunnel water at SWTP would be technically, operationally, or financially superior to the QJWTP Solution, **OPERATOR** agrees to comply with Paragraph 11.E of this **AGREEMENT** (collectively, “the Interim SWTP solution”).

The QJWTP Solution for Judge Tunnel Water

D. If **OPERATOR** elects to pursue the QJWTP solution, no later than December 31, 2022, **OPERATOR** agrees to complete construction of the continuation of the pipeline from the Judge Tunnel portal to the QJWTP, expansion of the capacity of the QJWTP, and upgrade the treatment capability of QJWTP to include options such as dewatering to remove solids filtered from Judge Tunnel water. At the completion of such construction, all surface water discharges from the Judge Tunnel, associated water treatment facilities and Empire Tank water storage facility shall comply with the final limits in the UPDES permit issued for the Judge Tunnel, except in cases of upset or emergency condition, as described in Rule 317-8-4.1(14), or other circumstances necessary for proper operation, maintenance and replacement of the water system only as allowed in the UPDES permit issued for the Judge Tunnel and the **OPERATOR’S** UPDES General Permit for Drinking Water Treatment Plants.

The Interim SWTP Solution for Judge Tunnel Water

E. If **OPERATOR** elects the Interim SWTP solution (defined below), no later than December 31, 2018, **OPERATOR** agrees to submit to the **DIVISION** a complete, detailed scope of work and engineering and construction plans for the expansion of the capacity of the SWTP and upgrades to the treatment capability of SWTP to treat Judge Tunnel water, including options such as dewatering to remove solids filtered from Judge Tunnel water. An Interim SWTP solution is a project which involves a modification or reconstruction of the present SWTP treatment process and facilities to achieve final effluent limits in the UPDES permits for Judge Tunnel water.

1. If **OPERATOR** elects the Interim SWTP solution as the final solution needed to achieve final effluent limits for the Judge Tunnel UPDES permit and such project costs less than \$6 million (including legal, engineering, construction, and other direct costs of the Interim SWTP revision), no later than December 31, 2022, **OPERATOR** agrees to complete construction of the expansion of the capacity of the SWTP, and upgrade the treatment capability of SWTP to include options such as dewatering to remove solids filtered from Judge Tunnel water, if necessary.

2. If **OPERATOR** elects the Interim SWTP solution as the final solution needed to achieve final effluent limits for the Judge Tunnel UPDES permit and such project costs more than \$6 million (including legal, engineering, construction, and other direct costs of the Interim SWTP revision), no later than January 1, 2024, **OPERATOR** agrees to complete construction of the expansion of the capacity of the SWTP, and upgrade the treatment capability of SWTP to include options such as dewatering to remove solids filtered from Judge Tunnel water, if necessary.
3. The project costs described in this Paragraph 11.E shall be based on the cost estimates provided in the analysis to be provided pursuant to Paragraph 11.C of this **AGREEMENT**.
4. At the completion of such construction called for in this Paragraph 11.E, all surface water discharges from the Judge Tunnel, associated water treatment facilities and Empire Tank water storage facility shall comply with final limits in the UPDES permit issued for the Judge Tunnel, except in cases of upset or emergency condition, as described in Rule 317-8-4.1(14), or other circumstances necessary for proper operation, maintenance and replacement of the water system only as allowed in the UPDES permit issued for the Judge Tunnel and the **OPERATOR'S** UPDES General Permit for Drinking Water Treatment Plants.

Final Judge and Spiro Solution

F. No later than December 31, 2021, **OPERATOR** agrees to submit to the **DIVISION** a complete, detailed engineering and financial analysis of the options for compliance with any permitted effluent limits for water from the Spiro Tunnel and/or the combined Spiro and Judge Tunnel discharge. This analysis shall include the identification of **OPERATOR'S** intended option for treatment of water from the Spiro Tunnel and/or the combined Spiro and Judge Tunnel discharge, as well as an assessment of feasible options to minimize bypass for reasonably foreseeable bypass scenarios. If no additional revision to the existing SWTP treatment process, beyond the Interim SWTP solution scope of work identified in Paragraph 11.E above, and no further revision of that facility is required to meet water quality standards for any Spiro and/or the combined Spiro and Judge Tunnel discharges, **OPERATOR** agrees that all discharges related to the Judge and Spiro Tunnels will comply with the final effluent limits in the applicable UPDES permits, including applicable General Permits, one year after completion of construction called for in Paragraph 11.E, except in cases of upset or emergency condition, as described in Rule 317-8-4.1(14), or other circumstances necessary for proper operation, maintenance and replacement of the water system only as allowed in

the UPDES permits issued for the Judge & Spiro Tunnels and the **OPERATOR'S** UPDES General Permit for Drinking Water Treatment Plants. Minor construction and revisions to the facility, or the need to construct other major drinking water-related facilities, which are not material in achieving water quality standards, will not delay this deadline to meet water quality discharge standards.

G. If a 'Major Revision' (defined below), beyond the scope of work described in Paragraph 11.E. above, is needed to meet the final limits in all applicable UPDES permits for all discharges related to the Judge and Spiro Tunnels and all other Park City drinking water system infrastructure, then **OPERATOR** agrees to achieve the deadlines set forth in this Paragraph 11.G. A Major Revision is defined as a project, including land acquisition, with a total cost, including legal, engineering, construction of only the infrastructure which is a direct component of the revision or expansion of facilities needed to meet the final limits of the UPDES Permits, and other direct costs of \$12.5 million or less to complete including the work outlined in Paragraphs 11.D, E, G, and H of this **AGREEMENT**.

1. No later than December 31, 2022, **OPERATOR** shall submit construction plans and specifications to the **DIVISION** for such Major Revision.
2. No later than January 1, 2025, **OPERATOR** shall complete construction of such Major Revision as the chosen alternative to meet final UPDES permit effluent limits.
3. No later than July 1, 2025, **OPERATOR** shall comply with all final UPDES permit limits for all water treatment plant infrastructure if a Major Revision is required to meet all such limits.
4. The project costs described in this Paragraph 11.G shall be based on the cost estimates provided in the analysis to be provided pursuant to Paragraph 11.F. of this **AGREEMENT**.
5. Notwithstanding any other provision in Paragraph G, **OPERATOR** agrees that the discharges related to Judge Tunnel will comply with applicable UPDES discharge permit limits within the time period (no later than January 1, 2024) stated in Paragraph 11.E.4 of this **AGREEMENT**.

H. If an 'Extensive Revision' (defined below), beyond the scope of work described in Paragraph 11.E. above, is required to meet the final limits in the applicable UPDES permits for all discharges related to the Judge and Spiro Tunnels and all other Park City drinking water system infrastructure, then **OPERATOR** agrees to achieve the deadlines set forth in this Paragraph 11.H. An Extensive Revision is defined as a project, including

land acquisition, with a total cost, including legal, engineering, construction of only the infrastructure which is a direct component of the revision or expansion of facilities needed to meet the final limits of the UPDES Permits, and other direct costs, of greater than \$12.5 million, including the work outlined in Paragraphs 11.D, E. G. and H. of this **AGREEMENT**.

1. No later than January 1, 2028, **OPERATOR** agrees to submit to the **DIVISION** construction plans and specifications for such Extensive Revision.
 2. No later than January 1, 2033, **OPERATOR** agrees to complete construction of all remaining facilities needed to achieve final effluent limits for Spiro Tunnel and Judge Tunnel and all other Park City drinking water system related discharges and begin startup and optimization of such treatment facilities.
 3. No later than July 1, 2033, **OPERATOR** agrees all discharges related to Judge Tunnel and Spiro Tunnel discharges, and all other Park City drinking water infrastructure related discharges will comply with all applicable UPDES discharge permit limits, except in cases of upset or emergency condition, as described in Rule 317-8-4.1(14), or other circumstances necessary for proper operation, maintenance and replacement of the water system only as allowed in the UPDES permits and the **OPERATOR'S** UPDES General Permit for Drinking Water Treatment Plants.
 4. The project costs described in this Paragraph 11 H. shall be based on the cost estimates provided in the analysis to be provided pursuant to Paragraph 11.F. of this **AGREEMENT**.
 5. Notwithstanding any other provision in Paragraph H herein, **OPERATOR** agrees that the discharges related to Judge Tunnel will comply with applicable UPDES discharge permit limits within the time period (no later than January 1, 2024) stated in Paragraph 11.E.4 of this **AGREEMENT**.
12. Nothing in this **AGREEMENT** shall constitute a waiver by **OPERATOR** of any claims it may have against third parties for costs, damages or other relief associated with pollutants in Judge and Spiro Tunnel discharges. Further, nothing in this **AGREEMENT** shall prohibit or limit in any way **OPERATOR's** ability to seek contribution or cost recovery from third parties under Comprehensive Environmental Response, Compensation and Liability Act, Resource Conservation and Recovery Act, Clean Water Act, or other laws or regulations. **OPERATOR** reserves all rights to any remedy not expressly prohibited by this **AGREEMENT**.
13. **OPERATOR** acknowledges that this **AGREEMENT** waives governmental immunity as to the **DIVISION** and State of Utah relating to this **AGREEMENT**. Nevertheless, the

OPERATOR is not waiving any defenses or immunity as to any other party that may be available under the Utah Governmental Immunity Act (Chapter 63G-7, Utah Code) nor does the **OPERATOR** waive any limits of liability currently provided by the Utah Governmental Immunity Act. Subject to all provisions of this **AGREEMENT**, and as may be applicable to third parties, nothing herein shall be deemed a waiver by the **OPERATOR** of any immunity provided by law to the **OPERATOR** or an extension of any limits of liability applicable to the **OPERATOR**. This **AGREEMENT** shall not be construed as an **AGREEMENT** to indemnify, hold harmless, or in any way to assume liability for personal injury, death or property damage caused by the negligence of another party.

14. **OPERATOR** shall supply to the **DIVISION** all requested information in order to assure compliance with this **AGREEMENT**, the **ACT**, associated rules and permit requirements.

15. **OPERATOR** shall perform the requirements of this **AGREEMENT** within the time frames set forth herein except as may be modified in accordance with Rule 317-8-5.6(1)(d) and other applicable law.

16. Disputes arising hereunder are subject to Sections 19-5-112, 19-1-301 and 19-1-301.5 of the Utah Code, Rule 305-7 of the Utah Admin. Code, and other applicable law.

17. The undersigned representatives certify that they are fully authorized to enter into the terms and conditions of this **AGREEMENT** and to bind the party they represent to this **AGREEMENT**.

18. This **AGREEMENT** shall be effective the day upon which it has been fully executed by the parties.

IT IS SO AGREED.

Park City Municipal Corporation



Date: August 1, 2014

By:
Clint McAfee, P.E., Water and Streets Director
Park City Municipal Corporation

IT IS SO ORDERED.



Date: 27 Oct. 2014

Walter L. Baker, P.E., Director
Utah Division of Water Quality