

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

Section 401 Water Quality Certification No. DWQ-2023-03002

Project Proponents: Steve Dennis, Summit County Engineer
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Project: Summit County (project proponent) proposes extending an existing asphalt paved shared-use path. The path will be located along the SR-32 highway corridor in UDOT's right-of-way (ROW) and partially within an easement on High Star Ranch. The Summit County SR-32 Trail Marion to Kamas (proposed project) will expand the existing path to Kamas City, which currently runs from Oakley to Marion. The proposed path will be 8-foot-wide with 2-foot gravel shoulders to help accommodate a variety of users. The Project Proponent indicated that a significant amount of non-motorized traffic utilizes a narrow strip along the roadway along the SR-32 highway. The Project Proponent proposes that creating a multi-use trail parallel to the highway will improve safety, reduce vehicular conflict and increase connectivity from Marion to Kamas City. The proposed project are is located within UDOT's ROW which is approximately 1.82 miles in length and 12 feet wide, totaling 9.7 acres. The proposed project will impact 1.82 miles in length and 12 feet wide of the ROW. The proposed project would permanently impact 0.70 acres of palustrine emergent wetlands, 302 linear feet of an intermittent ditch, and 42 linear feet of perennial ditch to create the trail. Approximately 1700 cubic yards of fill material will be used for the road base and 300 yards of asphalt. The Project Proponent indicated that the proposed impacts are unavoidable to meet the project needs within the ROW boundaries. The Project Proponent stated they have designed the trail to minimize impacts while still meeting the project goals of maximizing safety. The proposed trail was narrowed and designed near the existing grade to minimize fill reducing the impacts on the wetlands and roadside ditches. Compensatory mitigation will occur at a 2:1 ratio. The Project Proponent proposes constructing a wetland habitat adjacent to a wetland located 1.5 miles from the trail. The details of the mitigation plans have not yet been finalized.

Location: The proposed project is located along the east side of State Route 32 from Kamas to Marion in Summit County, Utah, between 850 North to 2700 North. The approximate location is 40.660 and -111.2806 degrees.

Watercourse(s): The project will permanently impact an unnamed perennial ditch of Spring Creek, an unnamed intermittent ditch, and PEM wetlands located within the Beaver Creek-1 Assessment Unit in the Weber River Watershed.

USACE Section 404: SPK-2022-00661

Effective Date: Month, Day, Year

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I. Definitions

- A. **Designated Beneficial Uses** means a water's present most reasonable uses, grouped by use classes to protect the uses against controllable pollution. Beneficial uses designated within each class are described in Utah Administrative Code (UAC) R317-2-6 and waterbodies beneficial uses can be found in UAC R317-2-13. For the purposes of this document, the term "designated beneficial uses" will be used to describe all uses required to be protected by Utah water quality standards and antidegradation policy.
- B. **Blue Ribbon Fishery:** status administered by the Utah Division of Wildlife Resources and the Blue Ribbon Advisory Council that indicates the waterbody has high quality in the following attributes: fishing, outdoor experience, fish habitat, and economic benefits.
- C. **Beneficial Use Classes** are how waters of the state are grouped and classified to protect against controllable pollution the beneficial uses designated within each class. UAC R317-2-6.
- D. **Category 1 Waters** are "*Waters which have been determined by the Board to be of exceptional recreational or ecological significance or have been determined to be a State or National resource requiring protection, shall be maintained at existing high quality through designation, by the Board after public hearing, as Category 1 Waters.*" UAC R317-2-3.2
- E. **Category 2 Waters** "*are designated surface water segments which are treated as Category 1 Waters except that a point source discharge may be permitted provided that the discharge does not degrade existing water quality.*" UAC R317-2-3.3
- F. **Designated Beneficial Uses** means a water's present most reasonable uses, grouped by use classes to protect the uses against controllable pollution. Beneficial uses designated within each class are described in Utah Administrative Code (UAC) R317-2-6 and waterbodies beneficial uses can be found in UAC R317-2-13.
- G. **Existing Uses** "*means those uses actually attained in a water body on or after November 28, 1975, whether or not they are included in the water quality standards.*" UAC R317-1-1. "*If a situation is found where there is an existing use which is a higher use (i.e., more stringent protection requirements) than that current designated use, the Director will apply the water quality standards and anti-degradation policy to protect the existing use.*" UAC R317-2-3.
- H. **Letters of Permission (LOP):** a USACE type of individual permit issued through an abbreviated processing procedure.
- I. **Level I Antidegradation Review (ADR):** "*is conducted to insure that existing uses will be maintained and protected.*" UAC R317-2-3.5
- J. **Project Proponent** "*means the applicant for license or permit or entity seeking certification.*" 40 CFR §121.1.
- K. **Protection Category:** "*Utah's surface waters are assigned to one of three protection categories that are determined by their existing biological, chemical and physical integrity, and by the interest of stakeholders in protecting current conditions.*" Utah Antidegradation Review Implementation Guidance (V 2.1)
- L. **Temporal Loss:** "*is the time lag between the loss of aquatic resource functions caused by the permitted impacts and the replacement of aquatic resource functions at the compensatory mitigation site.*" 40 CFR 230.92
- M. **Total Maximum Daily Load (TMDL)** "*means the maximum amount of a particular pollutant that a waterbody can receive and still meet state water quality standards, and an allocation of that amount to the pollutant's sources.*" UAC R317-1-1
- N. **Waters of the United States (WOTUS)** means waterbodies subject to the provisions of the Clean Water Act.
- O. **303(d) list** is a state's list of impaired and threatened waters, including but not limited to; streams, lakes, and reservoirs adopted to implement the Clean Water Act Section 303(d).

II. Acronyms

AU – Assessment Unit
BMPs – Best Management Practices
CFR – Code of Federal Regulations
CWA – Clean Water Act
CY – cubic yards
DEQ – Utah Department of Environmental Quality

DWQ – Utah Division of Water Quality
EPA – Environmental Protection Agency
LOP – Letter of Permission
mg/L – milligrams per liter
MS4 – Municipal Separate Storm Sewer System
NEPA – National Environmental Policy Act
NOI – Notice of Intent
NTU – Nephelometric Turbidity Units
NWP – nationwide permit
PEM – palustrine emergent
ROW – right of way
SR- state route
SWPPP – stormwater pollution prevention plan
TMDL – Total Maximum Daily Load
TSS – total suspended solids
UAC – Utah Administrative Code
UPDES – Utah Pollutant Discharge Elimination System
USACE – U.S. Army Corps of Engineers
WQC – Water Quality Certification
WQS – Utah Water Quality Standards
WOTUS – Waters of the United States

III. Executive Summary

Pursuant to Section 401 of the CWA 33 U.S.C. Section 1251 et seq., the DWQ grants Water Quality Certification (Certification) to Summit County for the proposed Summit County SR-32 Trail Marion to Kamas Project in Summit County, Utah. Certification is subject to the conditions outlined in this document and adherence to any U.S. Army Corps of Engineers (USACE) Section 404 Permit Conditions. The conditions outlined in this Certification are necessary to assure compliance with effluent limitations, monitoring requirements, and/or other applicable laws and regulations adopted for state primacy of the CWA.

DWQ’s conditions are based on and are necessary to comply with applicable state rules. Specifically, the following Utah rules represent overarching considerations that require the conditions outlined by this document to apply to the USACE Section 404 Permit: Utah’s rules promulgating standards of quality for waters of the State affirm “*it shall be unlawful and a violation of these rules for any person to discharge or place any wastes or other substances in such manner as may interfere with designated uses protected by assigned classes or to cause any of the applicable standards to be violated*” UAC R317-2-7.1.a. Additionally, “*all actions to control waste discharges under these rules shall be modified as necessary to protect downstream designated uses*” UAC R317-2-8. As stated in UAC R317-15-6.1 the Director will ordinarily consider whether the proposed discharge “*impairs the designated beneficial use classifications (e.g., aquatic life, drinking water, recreation) in Section R317-2-6*” UAC R317-15-6.1.A.1., “*exceeds water quality criteria, either narrative or numeric, in Section R317-2-7*” UAC R317-15-6.1A.2. or “*fails to meet the antidegradation (ADR) requirements of Section R317-2-7*” UAC R317-15-6.1.A.3.

On March 2, 2023, DWQ attended a pre-filing meeting with Harriet Natter from Wise Earth and Steven Dennis from Summit County Engineers for the Summit County SR-32 Trail Marion to Francis. Harriett Natter from Wise Earth submitted a complete Water Quality 401 Certification Application to DWQ on behalf of Summit County for the proposed Project on March 21, 2023. On April 13, 2023, Harriett Natter sent DWQ the application to Alter a Natural Stream No. 23-35-0013 required for the proposed project. Michael Pectol from the USACE received a 404 LOP application SPK-2022-00661 from Summit County for this project that is still under review.

IV. Background

A. Project Introduction

Summit County (Project Proponent) proposes to extend an existing trail alongside SR-32. The existing 8-foot-wide asphalt paved multi-use trail runs from Marion to Oakley City. The proposed project will connect to the existing trail and extend the trail to Kamas along SR-32 within UDOT's ROW and partially within an easement on High Star Ranch Road. The proposed trail will be 8-foot wide with 2-foot gravel shoulders to accommodate a variety of users such as cyclists and equestrian users. The Project Proponent indicated that the public has expressed a need to extend the path to create greater active transportation connectivity from the cities to the rural east side of Summit County. The proposed path will fulfill the need for connectivity, reduce vehicular conflict and improve safety.

B. Impacts

The proposed project will be located on the east side of SR-32, beginning at 2700 North and ending about 1000 feet from Simpson Lane in Kamas. The total project area is located within UDOT's ROW which is approximately 1.82 miles long and 40-foot wide, totaling 9.7 acres. The proposed project will impact 1.82 miles in length by a 12 foot wide section within the UDOT's ROW. The north end of the project location is primarily road base fill and compacted uplands. No aquatic resource impacts will occur within the northern mile of the project area on UDOT's ROW. The southern portion of the project consists of mainly agricultural land. The Project Proponent proposes to permanently fill 1.44 acres of palustrine emergent wetland with cobble fill material to stabilize the subgrade before constructing the path. If needed, a geotextile may be used to increase subgrade strength. The Project Proponent proposes 1700 cubic yards of road base fill and 300 cubic yards of asphalt will be used to fill the wetlands. The proposed project will also impact 42 linear feet of perennial ditch and 302 feet of intermittent ditch. The Project Proponent proposes to install piping within existing ditches to allow surface water flow under the proposed trail. The proposed project will require the extension of existing culverts and the addition of a few small culverts under the trail to convey sheet flows in the event of irrigation or seasonal surface runoff. The Project Proponent has applied for a Stream Alteration Permit No. 23-35-0013 to obtain the appropriate permit coverage for the perennial ditch alterations.

C. Mitigation/Minimization

The Project Proponent proposes using silt fencing around the construction areas to reduce erosion and impacts within the perennial surface waters. Cut and fill slopes will be less than 18 inches. The Project Proponent proposes slope areas ranging from 25-50 percent will be revegetated for long-term stability. Pipe installation and culvert construction will occur before the trail construction to reduce aquatic resource impacts. The Project Proponent indicated that the project design selected was the most practical and feasible to reduce the impacts to Waters of the U.S. (WOTUS) that would also achieve the proposed project need. The Project Proponent designed the trail to be 8 feet wide and constructed near the ROW's edge to reduce wetland and roadside ditch impacts. The Project Proponent proposes that contractors will acquire an encroachment permit from UDOT, a UPDES General Construction Permit, and be required to create a Stormwater Pollution Prevention Plan (SWPPP). The proposed trail will be constructed on an existing grade to minimize the fill footprint needed. The Project Proponent is proposing a 2:1 Compensatory Mitigation. The proposed mitigation site is 1.5 miles from the location of the trail and is adjacent to existing wetlands. The details for the mitigation plans are still being determined.

V. Aquatic Resource Impacts

All Waters of the State of Utah (defined in UAC R317-1-1) are protected from pollutant discharges that affect water quality by narrative standards (see UAC R317-2-7.2); broadly, discharges should not become offensive or cause

undesirable conditions in human health effects or aquatic life. In addition, some particularly sensitive classes of water are further protected from deleterious effects of specific pollutants by application of numeric criteria to designated beneficial uses of that waterbody. Listed below are the water features, grouped by AUs, impacted by the Project, their associated designated beneficial uses (see UAC R317-2-6 and UAC R317-2-13) and any impairments:

A. Unnamed ditches within Spring Creek, Beaver Creek-1 AU UT16020101-029_00 (includes Beaver Creek and tributaries from confluence with Weber River to Kamas.

1. Beneficial Use Designations

- a. Class 1C: Protected for domestic purposes with prior treatment processes as required by the Utah Division of Drinking Water.
- b. Class 2B: Protected for infrequent primary contact recreation. Also protected for secondary contact recreation where there is a low likelihood of ingestion of water or a low degree of bodily contact with the water. Examples include, but are not limited to, wading, hunting, and fishing.
- c. 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.
- d. Class 4: Protected for agricultural uses including irrigation of crops and stock watering.

Impairments and Total Maximum Daily Loads (TMDLs): N/A

2. Antidegradation Review

Waters within the Beaver Creek-1 are considered Category 3 waters for antidegradation purposes. Category 3 waters in Utah are waters where “*point source discharges are allowed and degradation may occur, pursuant to the conditions and review procedures outlined in Section 3.5*”, as described in UAC R317-2-3.4. The antidegradation policy allows for discharges where the water quality effects of the proposed Project are determined to be temporary and limited after consideration of the factors identified in UAC R317-2-3.5. b.4., and where best management practices (BMPs) would be employed to minimize pollution effects.

B. PEM Wetlands [¹]

1. Beneficial Use Designations

- a. Class 2B: Protected for infrequent primary contact recreation. Also protected for secondary contact recreation where there is a low likelihood of ingestion of water or a low degree of bodily contact with the water. Examples include, but are not limited to, wading, hunting, and fishing.
- b. Class 3D: Protected for waterfowl, shore birds and other water-oriented wildlife not included in Classes 3A, 3B, or 3C including the necessary aquatic organisms in their food chain.

2. Impairments and TMDLs: N/A

3. Antidegradation Review

The PEM wetlands are considered a Category 3 water for antidegradation purposes. Category 3 waters in Utah are waters where “*point source discharges are allowed and degradation may occur, pursuant to the conditions and review procedures outlined in Section 3.5*”, as described in UAC R317-2-3.4. The antidegradation policy allows for discharges where the water quality effects of the proposed Project are

¹ In UAC R317-2-13, all waters not specifically classified are presumptively classified 2B and 3D.

determined to be temporary and limited after consideration of the factors identified in UAC R317-2-3.5.b.4., and where BMPs would be employed to minimize pollution effects.

VI. Certification Conditions

- A. All activities with a potential discharge to WOTUS must implement and maintain BMPs to fully protect the waterbodies assigned beneficial use(s).
- B. Hazardous and otherwise deleterious materials (e.g. oil, gasoline, chemicals, trash, sawdust, soil, etc.) shall not be stored, disposed of, or accumulated or conveyed through adjacent to or in immediate vicinity WOTUS unless adequate measures and controls are provided to ensure those materials would not enter WOTUS in the State of Utah. **Any spill or discharge of oil or other substance which may cause pollution to WOTUS in the State of Utah, including wetlands, must be immediately reported to the Utah DEQ Hotline at (801) 536-4123, a 24-hour phone number.**
- C. All activities conducted in WOTUS in the State of Utah shall be conducted in the “dry” to the maximum extent practicable, by diverting flow utilizing cofferdams, berms constructed of sandbags, clean rock (containing no fine sediment) or other non-erodible, non-toxic material. All diversion materials shall be removed at the completion of the work. The Project Proponent shall consider conducting instream work during low flow conditions and work shall not be conducted during spawning season. Additionally, construction machinery shall not be operated within WOTUS in the State of Utah unless it is unavoidable, in which case it shall be conducted in the “dry” as stated above. The work shall be conducted in a manner to minimize the duration of the disturbance, turbidity increases, substrate disturbance, and minimize the removal of riparian vegetation. Construction machinery shall be clean to prevent the transfer of aquatic invasive species.
- D. Construction activities that disturb either greater than one acre of land, or less than one acre of land and is part of a larger common plan of development that would disturb greater than one acre, are required to obtain coverage under the Utah Pollutant Discharge Elimination System (UPDES) Storm Water General Permit for Construction Activities (Permit No. UTRC00000^[2]). The permit requires the development of a Storm Water Pollution Prevention Plan (SWPPP) to be implemented and updated from the commencement of any soil disturbing activities at the site, until final stabilization of the project. The SWPPP should include, but not be limited to, final site maps and legible plans, location of storm water outfalls/discharges, and information pertaining to any storm water retention requirements.
- E. Dewatering activities, if necessary during construction, may require coverage under the UPDES General Permit for Construction Dewatering (Permit No. UTG070000^[3]) applies to the construction dewatering of uncontaminated groundwater or surface water sources due to construction activities; hydrostatic testing of pipelines or other fluids vessels; water used in disinfection of drinking water vessels; and other similar discharges in the State of Utah that have no discharge of process wastewater. The permit requires submission of a Notice of Intent (NOI); maintenance of a discharge log; development and implementation of a dewatering control plan; and monitoring for Flow, Oil & Grease, pH, Total Suspended Solids (TSS), and Chlorine (required when chlorinated water is used and discharged to a stream with a chlorine standard). Discharge

² <https://documents.deq.utah.gov/water-quality/stormwater/construction/DWQ-2020-013890.pdf>

³ <https://documents.deq.utah.gov/water-quality/permits/updes/DWQ-2019-005143.pdf>

Monitoring Reports (DMRs) are required to be submitted monthly, regardless of whether a site discharges in a particular month.

VII. Condition Justification and Citation

- A. Implementation of BMPs. Project approval is conditioned on implementation of BMPs, which are required to be implemented by the antidegradation policy in UAC R317-2-3, water quality standards may be violated unless appropriate BMPs are incorporated to minimize the erosion-sediment and nutrient load. Violations of water quality standards could cause a waterbody to fail to meet its designated beneficial uses. As required by Utah's antidegradation policy UAC R317-2-3.1 "*Existing instream water uses shall be maintained and protected. No water //quality degradation is allowable which would interfere with or become injurious to existing instream water uses.*" As stated in UAC R317-15-6.1 the Director will ordinarily consider whether the proposed discharge "*impairs the designated beneficial use classifications (e.g., aquatic life, drinking water, recreation) in Section R317-2-6*" UAC R317-15-6.1.A.1., "*exceeds water quality criteria, either narrative or numeric, in Section R317-2-7*" UAC R317-15-6.1.A.2. or "*fails to meet the antidegradation (ADR) requirements of Section R317-2-7*" UAC R317-15-6.1.A.3 when making a Certification decision. If appropriate BMPs are incorporated, there is assurance that the Project will not violate water quality standards or impair a waterbody's beneficial use.

Citation(s): UAC R317-2-3.1, UAC R317-15-6.1, UAC R317-15-6.1.A.1., UAC R317-15-6.1.A.2., UAC R317-15-6.1.A.3.

- B. Proper Storage of Hazardous and Otherwise Deleterious Materials. Project approval is conditioned on proper storage of hazardous and otherwise deleterious materials, and notification of any discharge of those materials, to assure that water quality and narrative standards are not violated. When projects are occurring in or around waterbodies, there is a chance for pollutants to inadvertently be spilled/discharged into waterbodies due to increased risk from project related activities (e.g. presence of machinery, onsite chemical and gas storage, improper waste storage, and failure to use proper BMPs). To prevent or reduce the possibility that hazardous and otherwise deleterious materials are inadvertently discharged into a waterbody, Project Proponents must not store, dispose of, or accumulated such materials adjacent to or in immediate vicinity of WOTUS unless adequate measures and controls are provided to ensure those materials would not enter waters of the State. If there is a discharge to WOTUS in the State of Utah, it must be immediately reported to the DEQ, as stated in Utah Code Section 19-5-114. An inadvertent discharge of pollutants can cause violations with Utah's Narrative Standards, which states "*It shall be unlawful, and a violation of these rules, for any person 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 bioassay or other tests performed in accordance with standard procedures; or determined by biological assessments in Subsection R317-2-7.3*" UAC R317-3-7.2. Utah's rules promulgating standards of quality for waters of the State affirm "*it shall be unlawful and a violation of these rules for any person to discharge or place any wastes or other substances in such manner as may interfere with designated uses protected by assigned classes or to cause any of the applicable standards to be violated*" UAC R317-2-7.1.a. Discharges of pollutants, even inadvertently,

could cause both a violation of applicable water quality standards and possibly interfere with a waterbodies designated uses.

Citation(s): Utah Code § 19-5-114, UAC R317-3-7.2, UAC R317-2-7.1.A, UAC R317-15-6.1., UAC R317-15-6.1.A.1., UAC R317-15-6.1A.2.

- C. Dry Conditions to the Maximum Extent Practicable. Project approval is conditioned on conducting activities under dry conditions to the maximum extent practicable to assure that water quality standards are not exceeded. Construction machinery used within a waterbody can cause significant impacts to water quality if adequate precautions are not taken. When it is unavoidable to operate construction machinery within the waterbody the Project Proponent should focus on minimizing the duration of the disturbance, turbidity increase, substrate disturbance, removal of riparian vegetation, and work shall be conducted in the “dry” to the maximum extent practicable. Minimizing the duration of impact reduces the chance that the impacts will accumulate and cause significant impacts to water quality. Minimizing turbidity increases is important because the State of Utah has numeric water quality criteria for turbidity in certain use designations, which could be violated if the Project Proponent does not take proper steps to minimize the increases. Water quality criteria for turbidity will be violated if there is an increase of 10 NTUs in waterbodies with designated uses related to recreation and if there is an increase of 10 NTUs (class 3A and 3B) or 15 NTUs (class 3C and 3D) in waterbodies with aquatic wildlife designated uses. UAC R317-2-14.1 and UAC R317-2-14.2. Conducting work in the “dry” to the maximum extent practicable will help reduce the risk of the numeric criteria for turbidity to be exceeded, as well as reduce the risk of a significant sediment load being transported downstream. Discharges of sediment can not only violate numeric criteria, but also, risk violating Utah’s narrative standard *“It shall be unlawful, and a violation of these rules, for any person 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 bioassay or other tests performed in accordance with standard procedures; or determined by biological assessments in Subsection R317-2-7.3.”* UAC R317-2-7.2. Violations of numeric and narrative criteria could cause a waterbody not to meet its designated beneficial use and a transport of sediment downstream could prevent a downstream waterbody from meeting its designated beneficial uses. As required by Utah’s antidegradation policy UAC R317-2-3.1 *“Existing instream water uses shall be maintained and protected. No water quality degradation is allowable which would interfere with or become injurious to existing instream water uses”*. Additionally, *“All actions to control waste discharges under these rules shall be modified as necessary to protect downstream designated uses”* UAC R317-2-8. As stated in UAC R317-15-6.1 the Director will ordinarily consider whether the proposed discharge *“impairs the designated beneficial use classifications (e.g., aquatic life, drinking water, recreation) in Section R317-2-6”* UAC R317-15-6.1.A.1., *“exceeds water quality criteria, either narrative or numeric, in Section R317-2-7”* UAC R317-15-6.1A.2. or *“fails to meet the antidegradation (ADR) requirements of Section R317-2-7”* UAC R317-15-6.1.A.3 when making a certification decision.

Citation(s): UAC R317-2-3.5., UAC R317-2-7.1.A., UAC R317-2-14.1, UAC R317-2-14.2., UAC R317-2-7.1.a., UAC R317-2-7.2., UAC R317-2-3.1, UAC R317-2-8. , UAC R317-15-6.1, UAC R317-15-6.1.A.1, UAC R317-15-6.1A.2., UAC R317-15-6.1.A.3.

- D. UPDES Storm Water General Permit for Construction Activities (Permit No. UTRC00000). UAC R317-8-2.5, gives the Director authority to issue general permits to cover specific categories of discharges, including storm water and construction dewatering that is discharged to a surface water. According to UAC R317-8-3.9 (6)(d), construction activities that result in a land disturbance of equal to or greater than one acre, including clearing, grading, and excavation are “industrial activities” under UAC R317-8-3.9(1)(a) and are therefore required to obtain and comply with a UPDES Permit for storm water discharges. This only applies to projects that meet or exceed one acre of disturbance.

Citation(s): UAC R317-8-3.9(6)(d) and UAC R317-8-3.9(1)(a)

- E. UPDES General Permit for Construction Dewatering (Permit No. UTG070000). UAC R317-8-2.5, gives the Director authority to issue general permits to cover specific categories of discharges, including storm water and construction dewatering that is discharged to a surface water. Under the authority granted by UAC R317-8-2.5, the Director issued the General Permit for Construction Dewatering and Hydrostatic Testing, UPDES Permit No. UTG070000 renewed and effective as of February 1, 2020. UPDES Permit No. UTG070000 applies to construction dewatering of uncontaminated groundwater or surface water sources due to construction activities, hydrostatic testing of pipelines or other fluids vessels, water used in disinfection of drinking water vessels and other similar discharges in the State of Utah that have no discharge of process wastewater. This only applies to projects that require dewatering and discharge to surface water.

Citation(s): UAC R317-8-2.5

VIII. Disclaimers

A. Fees

1. The legislatively-mandated fee for the 2023 fiscal year is \$110.00/hour for review and issuance of the Section 401 Water Quality Certification. A quarterly invoice will be sent and your payment is due within 30 days.

B. Disclaimers

1. The Project Proponent must acquire all necessary easements, access authorizations and permits to ensure they are able to implement the Project. This Section 401 Certification does not convey any property rights or exclusive privileges, nor does it authorize access or injury to private property.
2. This Section 401 Certification does not preclude the Project Proponent’s responsibility of complying with all applicable Federal, State or local laws, regulations or ordinances, including water quality standards. Permit coverage does not release the project proponent from any liability or penalty, should violations to the permit terms and conditions or Federal or State Laws occur.
3. A Project within a Municipal Separate Storm Sewer System (MS4) jurisdiction, must comply with all the conditions required in that UPDES MS4 Permit and associated ordinances. No condition of this Section 401 Certification shall reduce or minimize any requirements provided in the MS4 Permit. In the case of conflicting requirements, the most stringent criteria shall apply.

IX. Public Notice and Comments

As Stated in UAC R317-15-5., this Certification decision is subject to a 30 public notice period. Per UAC R317-15-5 draft certification decisions are subject to a thirty (30) day public notice. UAC R317-15-5.1 allows for the 30 public notice period to be lengthened or shortened for a good cause, which includes those projects that are routinely granted and any proposed activity is considered minor. Summit County is seeking a Letter of Permission (LOP) through the USACE. The DWQ typically views these impacts as minor compared to USACE Standard Permits and have routinely granted these types of certifications. Therefore, the DWQ has reduced the public notice permit to 14 days (2 weeks). After considering public comment, the Director may execute the Certification issuance, revise it, or abandon it.

- A. Public Notice Dates: 15 days after the date published on public notice.
- B. Public Notice Comments/Response: To be updated after public notice period.
- C. During finalization of the Certification certain dates, spelling edits, and minor language or formatting corrections may have been completed. Due to the nature of these changes they were not considered major and the Certification will not be Public Noticed again.

X. Water Quality Certification

The Utah DWQ certifies that if the Project Proponent adhere to the conditions outlined in this Certification and adheres to any USACE Section 404 Permit Conditions, then the Project will comply with water quality requirements and applicable provisions of the CWA sections 301 (Effluent Limitations), 302 (Water Quality Related Effluent Limitations), 303 (Water Quality Standards and Implementation Plans), 306 (National Standards of Performance), and 307 (Toxic and Pretreatment Effluent Standards).

John K. Mackey P.E., Director

Date

DWQ-2023-007149