

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

Section 401 Water Quality Certification No. DWQ-2023-08002

Project Proponents: Timothy Hawkes
Council and Vice Chair
Great Salt Lake Brine Shrimp Cooperative
1750 West 2450 South
Ogden, UT 84401

Project: The Great Salt Lake Brine Shrimp Cooperative (the Project Proponent) is proposing to dredge the existing Sanders Harbor and existing channel. The Sanders Harbor and Access Channel Dredging (the Project) is a critical access point for brine shrimp boats harvesting brine shrimp on the south side of the Great Salt Lake. The harbor and a portion of the access channel have been previously disturbed from construction and dredging to maintain the channel and harbor. The Project Proponent proposes that the dredging is needed to maintain vessel access to the harbor and for the brine shrimping boats to utilize the facilities. The proposed project will utilize the hydraulic placement of dredged material on the south end of the proposed 5,000 foot by 40-foot access channel and maintained at a depth of approximately 5 feet. The dredge sediment would be placed within a 300-foot-wide section lakebed directly adjacent to the south of the access channel to a maximum one-foot depth. The proposed hydraulic displacement area is comprised of 35 acres of open water and sand/silt lakebed Waters of the United States (WOTUS). The project area is located near bioherms but the project proponent has stated that these areas will be avoided. The project proponent states that all reasonable and practical measures to avoid and minimize impacts to aquatic resources will be taken. There are no proposed loss of waters or damage to wetlands. The USACE has not required any compensatory mitigation at this time.

Location: The north end of Stansbury Island in the Great Salt Lake, Tooele County, Utah at approximately Latitude 40.932795°, Longitude -112.512111°.

Watercourse(s): Great Salt Lake, Gilbert Bay

USACE Section 404: SPK-2022-00642

Effective Date: Month, Day, Year

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I. Definitions

- A. **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.
- B. **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
- C. **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
- D. **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.
- E. **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.
- F. **Level I Antidegradation Review (ADR):** “*is conducted to insure that existing uses will be maintained and protected.*” UAC R317-2-3.5
- G. **Level II Antidegradation Review (ADR)** is conducted to insure that water quality degradation is necessary and that the proposed activity is documented to be both economically and socially important. Level II ADRs are required for any activity that’s impacts are not considered temporary and limited and is likely to result in degradation of water quality.
- H. **Project Proponent** “*means the applicant for license or permit or entity seeking certification.*” 40 CFR §121.1.
- I. **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)
- J. **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
- K. **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
- L. **Waters of the United States (WOTUS)** means waterbodies subject to the provisions of the Clean Water Act.
- M. **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
EIS – Environmental Impact Statement
EPA – Environmental Protection Agency
mg/L – milligrams per liter
NEPA – National Environmental Policy Act
NOI – Notice of Intent

NTU – Nephelometric Turbidity Units
NWP – nationwide permit
ROW – right of way
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 the Great Salt Lake Brine Shrimp Cooperative, Inc. for the proposed Sanders Harbor and Access Channel Dredging Project (the Project) in Tooele County, UT. 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 R317-15-6.1.A.2. or “*fails to meet the antidegradation (ADR) requirements of Section R317-2-7*” UAC R317-15-6.1.A.3.

The Utah DWQ attended a pre-filling meeting with the project proponent on February 2, 2023 to discuss the Sanders Harbor and Access Channel Dredging Project. On August 22, 2023, Tim Hawkes submitted a 401 Certification Application for the Project to DWQ on behalf of GSL. Hollis Jencks of USACE determined the Reasonable Period of Time to be 90 days from August 22, 2023. DWQ has until November 20, 2023, to grant, deny, or expressly waive certification.

IV. Background

The Project Proponent is proposing to dredge the existing harbor and access channel of Sanders Harbor, located on Stansbury Island in the Gilbert Bay region of the Great Salt Lake, for the next five years. The proposed Project is needed to maintain the boat access to and from the boat harbor, which is essential for the brine shrimp harvest operations on the Great Salt Lake. As water levels on the Great Salt Lake decline, access to the harbor becomes reduced. The proponent indicated that Sanders Harbor might become unusable without dredging within the channel. Sanders Harbor is utilized as a principal point of access for boats harvesting brine shrimp on the Great Salt Lake. The proposed Project will maintain safe access for all the boats utilizing the Great Salt Lake. The Project Proponent

indicates that the brine shrimp industry plays an essential role in the ecology of the Great Salt Lake. They indicated the harvest of brine shrimp helps to stabilize the normal population fluctuations in the brine shrimp industry, and that the harvest not only helps with the brine shrimp but also with the species that rely on the brine shrimp population for food. The proposed Project will maintain the brine shrimp industry access on the lake and help to maintain the ecologic benefits associated with the brine shrimp harvest.

The Project Proponent proposes that the burden and expense of dredging have increased, making previously used dredging operations at Promontory Point, which included disposal of the material off-site, impractical. Unlike Promontory Harbor, Sander Harbor does not have a close location where sediment placement would be possible. Also, alternatives evaluated, such as sediment removal, were determined unsustainable due to several environmental and financial factors by the Project Proponent.

The Project would expand and maintain the access channel to 5,000 linear feet by 40 feet wide, at a depth of approximately 5 feet. This depth was determined based on the water level needed for the vessels' access to the Sanders Harbor. The Project Proponent proposes discharging the dredge material, which will consist of fine sand and silt in approximately 35 acres of Waters of the US (WOTUS) annually on the south end of the access channel within a 300-foot wide section of the lake bed at a depth of 1 foot. The Project's discharge volume significantly depends on water levels and the amount of sediment that needs to be removed to maintain the channel and harbor access at Sanders but will total a maximum of 13640 CY.

The Project Proponent proposes that discharging the dredged sediments will be dispersed in a thin layer away from any of the extant bioherm fields in the area. The sediment dispersal was moved south of the channel area to avoid dispersal on the bioherm area north of the project area. The proponent suggests that the plan will utilize the existing contours to minimize impacts on the bioherm fields. The Project Proponent asserts that the project work will not adversely impact the beneficial uses of Gilbert Bay and that the inability to harvest brine may create harmful conditions for the Great Salt Lake ecosystem. The proposed Project will not result in any water loss on the Great Salt Lake. No adverse wetland impacts or impacts to the Great Salt Lake ecosystem are anticipated due to the Project. The proposed Project will involve dispersing the sediments in a thin layer to minimize changes to the existing topography of the area. The USACE has not required any compensatory mitigation at this time.

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. Great Salt Lake, Gilbert Bay below 4208 feet elevation.

1. Designated Beneficial Uses

- a. Class 5A: Protected for frequent primary and secondary contact recreation, waterfowl shore birds and other water-oriented wildlife including their necessary food chain.

2. Impairments and Total Maximum Daily Loads (TMDLs): NA

3. Antidegradation Review

Waters within the Great Salt Lake Gilbert Bay AU 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.

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, 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. The Great Salt Lake Brine Shrimp Cooperative shall submit to DWQ for Director review a Sanders Harbor Project Operations Plan. This plan shall address and provide detailed information on how the proposed Project will monitor and protect the Beneficial uses of Gilbert Bay, including the bioherms within the Project area. The plan should include but not be limited to: updated project mapping that details the extent of bioherms in the area and hydraulic displacement areas; the proposed measures taken by the project proponent that demonstrate the bioherms located in the project area will not be impacted (or impacts will be *de minimis*) throughout the duration of the proposed project. The plan shall be submitted to DWQ at least 90 days prior to planned dredging and approved prior to commencing dredging operations. The Director will review the plan and respond within two weeks of the Plan submission.
- E. 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^[1]). 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.

- F. Dewatering activities, if necessary during construction, may require coverage under the UPDES General Permit for Construction Dewatering (Permit No. UTG070000^[2]) 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 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

¹ <https://documents.deq.utah.gov/water-quality/stormwater/construction/DWQ-2020-013890.pdf>

² <https://documents.deq.utah.gov/water-quality/permits/updes/DWQ-2019-005143.pdf>

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 R317-15-6.1.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.

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 R317-15-6.1.A.2., UAC R317-15-6.1.A.3.

- D. Sanders Harbor Project Operations Plan. This project approval is conditioned on the submittal and approval of a Project Operations Plan for the proposed project. The Sanders Harbor and Access Channel Dredging project area is located in known bioherm fields. The construction and placement of dredged materials could be damaging to the bioherms located in the area. 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.*" The project is located in Gilbert Bay, which has the Beneficial Uses of 5A, protected for frequent primary and secondary contact recreation, waterfowl shore birds, and other water-oriented wildlife, including their necessary food chain. UAC R317-15-6.1, the Director will ordinarily consider whether the proposed discharge "*impairs the designated beneficial use classifications*". Also, as stated in 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.*" The submittal and approval of a Project Operations Plan to address the bioherms' protection within the project area will ensure that the beneficial uses are maintained.

Citation(s): UAC R317-2-3.1, UAC R317-15-6.1, UAC R317-3-7.2.

- E. 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)

- F. 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 2024 fiscal year is \$115.00/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 in UAC R317-15-5., this Certification decision is subject to a 30 public notice period. After considering public comment, the Director may execute the Certification issuance, revise it, or abandon it.

A. Public Notice Dates:

B. Public Notice Comments/Response:

- 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 adheres 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 Mackey, P. E., Director

Date

DWQ-2023-125107

P R A W N D R A F F E T