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

Section 401 Water Quality Certification No. DWQ-2022-02002

Project Proponent: South Utah Valley Solid Waste District
Mr. Terry Ficklin
2450 West 400 South
Springville, UT 84663

Project: The Project Proponent proposes to clear and grub 0.96 acres of wetland area in preparation for placement of fill. Fill will be placed to construct earthen berms and paved surfaces above the existing elevation. Placement of fill within the cleared wetland areas includes: 2,000 cubic yards (CY) of compacted import fill for the 2-foot high berm (per the wall manufacturer's recommendation) and site elevation changes; 1,760 CY of granular borrow; 1,050 CY of base course; and 715 CY of asphalt for the new paved surfaces. The Project Proponent indicated the purpose of the proposed project is to site and construct a new ERF that will accommodate current and future waste loads for the municipalities served by the District while minimizing the amount of wetland disturbance. The ERF is needed to meet the growing solid waste demands of the District's member cities. The project proponent proposes permittee-responsible, in-kind, compensatory mitigation. The proposed mitigation site includes approximately 5.94 acres and is in the eastern half of the project area; west of the ERF. The Project Proponent proposes to expand current boundaries of the existing wetland through the construction and establishment of an additional 1.49 acres of new wetlands. This compensatory mitigation effort would allow for a 3:1 proposed mitigation ratio for wetland establishment. The Project Proponent also plans proposes to facilitate the preservation of 4.45 acres of existing saline wet meadow. This compensatory mitigation effort would allow for a 7:1 proposed mitigation ratio for wetland preservation.

Location: Latitude 40.15377°, Longitude -111.660995°, Spanish Fork, Utah County, Utah.

Watercourse(s): Saline Wet Meadow Wetlands

USACE Section 404: SPK-2019-00801

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. **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.
- C. **Total Maximum Daily Load** "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
- D. **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).
- E. **Project Proponent** "means the applicant for license or permit or entity seeking certification." 40 CFR §121.1
- F. **Waters of the United States** means waterbodies subject to the provisions of the Clean Water Act.

II. Acronyms

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
mg/L – milligrams per liter
NOI – Notice of Intent
NTU – Nephelometric Turbidity Units
OHWM – ordinary high water mark
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
USBR – U.S. Bureau of Reclamation
WQS – Utah Water Quality Standards
WOTUS – Waters of the United States

III. Executive Summary

Pursuant to Section 401 of the Clean Water Act (CWA) 33 U.S.C. Section 1251 et seq., the Utah Division of Water Quality (DWQ) grants Water Quality Certification (Certification) to South Valley Solid Waste District (the District) for the proposed South Utah Valley Solid Waste District Environmental Recovery Facility (ERF) project in Spanish Fork, Utah 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 R317-15-6.1.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 received a Section 401 Certification application for the proposed project on February 15, 2022.

IV. Background

The Project Proponent proposes to clear and grub 0.96 acres of wetland area in preparation for placement of fill. Fill will be placed to construct earthen berms and paved surfaces above the existing elevation. Placement of fill within the cleared wetland areas includes: 2,000 cubic yards (CY) of compacted import fill for the 2-foot high berm (per the wall manufacturer's recommendation) and site elevation changes; 1,760 CY of granular borrow; 1,050 CY of base course; and 715 CY of asphalt for the new paved surfaces. Minor grading will occur to match the toe of the berm to the existing grade adjacent to existing wetlands. Silt fences and straw wattles will be placed at the limits of disturbance around the toe of the berm to control erosion and sediment during construction and protect the existing wetlands.

The Project Proponent indicated the purpose of the proposed project is to site and construct a new ERF that will accommodate current and future waste loads for the municipalities served by the District while minimizing the amount of wetland disturbance. The ERF is needed to meet the growing solid waste demands of the District's member cities. The District's existing transfer station in Springville was initially designed in 1991 for a single waste stream of municipal solid waste (MSW) with an average and peak capacity of 250 and 400 tons per day. Over the past 30 years, recycling has become more widely accepted and this single MSW waste stream has turned into multiple waste streams. This along with rapid population growth seen throughout the south end of Utah County has required the transfer station to operate beyond design capacity more than fifty percent of the time; driving the need for a larger facility. When operating above capacity, waste is often stored outside and transferred under adverse weather conditions. The ERF is designed to accommodate average and peak day through outputs of 900 and 1900 tons per day respectively, and keep all transfer operations indoors to ease operations and manage odors. Waste from the existing transfer station and proposed ERF are transported to the Bayview Landfill in Elberta, Utah.

The Project Proponent proposes permittee-responsible, in-kind, compensatory mitigation. The proposed mitigation site includes approximately 5.94 acres and is in the eastern half of the project area; west of the ERF. The Project Proponent proposes to expand current boundaries of the existing wetland through the construction and establishment of an additional 1.49 acres of new wetlands. This compensatory mitigation effort would allow for a 3:1 proposed mitigation ratio for wetland establishment. The Project Proponent also plans proposes to facilitate the preservation

of 4.45 acres of existing saline wet meadow. This compensatory mitigation effort would allow for a 7:1 proposed mitigation ratio for wetland preservation.

V. Aquatic Resource Impacts

All Waters of the State of Utah are protected from pollutant discharges, particularly those 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 water body. Listed below are the water features within the Project area and their associated designated beneficial uses (see UAC R317-2-6 and UAC R317-2-13):

A. Saline Wet Meadow Wetland [¹]

1. 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 saline wet meadow wetland is 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 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 waters of the U.S. (WOTUS) must implement and maintain best management practices (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 will 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.**

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

- C. Construction activities that either greater than an acre of land, or less than an acre of land and is part of a larger common plan of development that will disturb greater than 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.
- D. 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 Monitoring Reports (DMRs) are required to be submitted monthly, regardless of whether a site discharges in a particular month.

VII. Fees

The legislatively-mandated fee for the 2022 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.

VIII. Disclaimers

- A. 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.
- B. This Section 401 Certification does not preclude the Project Proponent's responsibility to comply 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.
- C. 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.

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>

IX. Public Notice and Comments

As per UAC R317-15-5., this Certification decision is subject to a 30 public notice period. 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. The project proponent 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:

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).

Erica Brown Gaddis PhD, Director

Date

DWQ-2022-002894