

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

Section 401 Water Quality Certification No. DWQ-2022-07002

Project Proponents: Jason Brown
City Manager
Beaver City Corporation
130 West 300 North
Beaver, UT 84713

Project: Beaver City Corporation (Project Proponent) proposes to renew their Federal Energy Regulatory Commission (FERC) license to operate the Beaver City Canyon Plant No. 2. The project proponent proposes to construct a new powerhouse and tailrace 50-ft upstream of the current powerhouse location under the new FERC license. The existing powerhouse will be abandoned as a historical facility. The existing project consists of a diversion dam, penstock, powerhouse, tailrace channel, transmission line, and related facilities. The hydropower facility has been in operation since 1942. The purpose of the project is to provide electric energy for residential and commercial customers in Beaver City. The project operates by diverting flow from the Beaver River.

Location: The proposed project is located in Beaver City, Beaver County, Utah. The project is approximately located at 38.263889 and -112.547222

Watercourse(s): Beaver River

FERC License No.: 1858

Effective Date: Month, Day, Year

Table of Contents

I.	3	
II.	3	
III.	Executive Summary	3
IV.	Background	4
VI.	Aquatic Resource Impacts	5
VII.	Certification Conditions	8
VIII.	Condition Justification and Citation	10
IX.	Disclaimers	15
X.	11	
XI.	Water Quality Certification	16

P N D R A F F T

I. Definitions

- A. **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.
- B. **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.
- C. **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.
- 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. **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 ensure 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. **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
- K. **Waters of the United States (WOTUS)** means waterbodies subject to the provisions of the Clean Water Act.
- L. **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
DEQ – Utah Department of Environmental Quality
DWQ – Utah Division of Water Quality
EIS – Environmental Impact Statement
EPA – Environmental Protection Agency
FERC – Federal Regulatory Energy Commission
mg/L – milligrams per liter
MS4 – Municipal Separate Storm Sewer System

NEPA – National Environmental Policy Act
NOI – Notice of Intent
NTU – Nephelometric Turbidity Units
SWPPP – stormwater pollution prevention plan
TMDL – Total Maximum Daily Load
TSS – total suspended solids
UAC – Utah Administrative Code
UPDES – Utah Pollutant Discharge Elimination System
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 Beaver City for the proposed Beaver No. 2 Hydroelectric Project (Project) in Beaver City, Beaver County, Utah. Certification is subject to the conditions outlined in this document and adherence to any Federal Energy Regulatory Commission (FERC) License. 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 Federal Energy Regulatory Commission (FERC) License. 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 DWQ received a request for a pre-filing meeting on June 22, 2022. A pre-application meeting was attended by DWQ and the project proponent on June 27, 2022. Peter Josten of GeoSense submitted a 401 Water Quality Certification application on July 28, 2022 and the DWQ Determined the application was complete.

IV. Background

Beaver City proposes to renew their FERC license for the Beaver No. 2 Hydroelectric Project. The project is located on the Beaver River in Beaver City, Beaver County, Utah. The project has been in operation since 1942 and the original FERC license was issued in March of 1993. The project currently includes a diversion dam, penstock, powerhouse, tailrace channel, and related facilities. Under the new license the project proponent proposes to construct a new powerhouse and tailrace 50-ft upstream of the existing powerhouse. The new powerhouse would consist of a 27-ft by 40-ft metal building and the tailrace will be 50-ft long and 10-ft wide. Construction will impact 0.28 acres of developed land and 0.04 acres of upland shrubland. No construction is planned in riparian areas. The existing land is currently used for livestock grazing and as a trash collection site for the Forest Service. The new

construction would increase the project capacity from 625 kW to 720 kW. The old powerhouse would be retired as a historic structure.

The project operates by diverting flows from the Beaver River for hydroelectric power. The water is then returned to the Beaver River. There are no significant physical, chemical, biological, or thermal changes to the water that is discharged. The proposed project would not create any additional long-term impacts to the Beaver River. The project proponent proposes a variety of best management practices (BMPs) to minimize or mitigate any water quality impacts during construction of the new power plant and tailrace. The project proponent will apply for a construction general permit upon the issuance of the FERC license. No dewatering activity is proposed during the construction of the new powerhouse or tailrace. The project proponent will implement an Erosion Control Plan to minimize disturbance to vegetation and reduce erosion and sedimentation. Construction will be completed in the late summer when flows are at the lowest, shoreline stabilization will be maintained to reduce erosion, disturbed areas will be revegetated, concrete washout will be properly contained and disposed of, and silt fence will be installed along any banks of the Beaver River. The new tailrace will be rock-lined and shaped to return flow to the Beaver River with minimal turbulence. Minimum stream flows will be maintained to reduce washout and erosion. Beaver City plans to work closely with federal, state and local agencies to ensure that wildlife and vegetative habitats are preserved and maintained.

Beaver City did not present any alternative sites for the proposed project. The existing infrastructure and location make other sites infeasible. The proposed work will likely have a beneficial impact to water quality as the hydroelectric project will be updated and a new tailrace is being constructed. The tailrace would allow for fish to migrate past the dam as well as preventing bank erosion. The proposed construction would also include fishing access for recreational use on the Beaver River.

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. Beaver River AU UT16030007-003_00 (includes Beaver River and tributaries from USFS boundary to headwaters)
 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 3A: Protected for cold water species of game fish and other cold-water aquatic life, including the necessary aquatic organisms in their food chain
 - c. Class 4: Protected for agricultural uses including irrigation of crops and stock watering.
 2. Impairments and Total Maximum Daily Loads (TMDLs)

Results from the current water quality assessment, as documented in Utah’s Final 2022 Integrated Report^[1], indicate that the water quality of the Beaver River AU is not considered impaired. The CWA directs states to prepare a plan to restore water quality to impaired waters, otherwise known as TMDL study. A TMDL is required for each parameter and waterbody to define pollutant reduction requirements necessary for the waterbody to meet water quality standards. At present, no TMDLs have been finalized for the Price River-Beaver Creek AU.

3. Antidegradation Review

The waters within the Beaver River AU are considered Category 1 waters for antidegradation purposes. Category 1 waters in Utah 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”, as described in UAC R317-2-3.2. For Category 1 Waters “Discharges may be allowed where pollution will be temporary and limited after consideration of the factors in R317-2-3.5.b.4., and where best management practices will be employed to minimize pollution effects” R317-2-3.2; R317-2-3.3.

Based on the submitted documentation the DWQ has determined that a Level II ADR will not be required for this project because the water quality effects of the proposed activity are expected to be temporary and will not have any additional impacts than the existing project. The proposed activities will likely only impact the Beaver River during the proposed work and the impacts should only be related to sediment and turbidity. Overall, the proposed work will likely have a beneficial impact to water quality as the hydroelectric project will be updated and a new tailrace is being constructed.

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. All activities shall not cause further degradation of impaired waterbodies, as defined in DWQ’s most recent 303(d) list, regardless of whether a TMDL has been completed. The Project Proponent must review impairments on the waterbodies where the Project has the potential to discharge and is responsible for ensuring that water quality standards are not exceeded and designated beneficial uses are not impaired.
- C. 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.**
- D. 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

¹ <https://documents.deq.utah.gov/water-quality/monitoring-reporting/integrated-report/DWQ-2022-002386.pdf>

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.

- E. All activities conducted in or immediately adjacent to WOTUS in the State of Utah with assigned beneficial use class 3A (cold water fishery) or has blue ribbon fishery designation must avoid removal of native riparian vegetation that provides stream shading to the maximum extent practicable. Any Projects that approve removal of riparian vegetation that provides shade must require reestablishment of native vegetation that provides equal or greater shade. The Project Proponent shall provide successful reestablishment of native vegetation.
- F. Project activities shall not increase water turbidity by more than 10 Nephelometric Turbidity Units (NTUs) in waterbodies classified as beneficial use class 2B for recreation and 3A for cold water aquatic life. Project activities shall not cause an increase in water turbidity by more than 15 NTUS in waterbodies classified as beneficial use class 3D. Project Proponents must continuously monitor turbidity during instream construction to ensure turbidity increases are within the limits listed above. The Project Proponents must provide monthly reports to DWQ during instream construction in waterbodies with class 2B, 3A, and 3D beneficial use designations that include at a minimum: baseline (reference) turbidity measurements in each waterbody where instream construction is occurring.
- G. 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.
- H. 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.

²¹¹ <https://documents.deq.utah.gov/water-quality/stormwater/construction/DWQ-2020-013890.pdf>

³¹² <https://documents.deq.utah.gov/water-quality/permits/updes/DWQ-2019-005143.pdf>

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 R317-15-6.1.A.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. Turbidity Increases and Instream Construction Monitoring. Beneficial uses associated with recreation and aquatic life have been assigned numeric criteria for turbidity. An increase of more than 10 NTUs in class 2B and 3A waterbodies above the turbidity of that waterbody would be a violation of instream criteria for waterbodies that have recreation or aquatic life uses. Similarly, an increase of more than 15 NTUs in class 3D waterbodies above the turbidity of that waterbody would be a violation of instream criteria for waterbodies that have aquatic life uses. UAC R317-2-14.1 and UAC R317-2-14.2. Therefore, turbidity increases above those allowed by this Certification could cause the waterbody to fail to meet its designated beneficial use classes. Turbidity monitoring during instream construction in waterbodies with class 2B, 3A and 3D beneficial

uses designations will ensure turbidity increases do not violate Utah’s water quality standards. Utah’s antidegradation policy states “*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*” UAC R317-2-3.1. Failure to minimize turbidity increases that result in the failure to maintain beneficial use class 2B or 3A would be considered a violation of Utah’s rules and promulgated standards of quality for waters of the State, specifically Utah’s antidegradation policy found at UAC R317-2-3. 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.

Citations: UAC R317-2-3.1, UAC R317-2-3, UAC R317-2-14.1, UAC R317-2-14.2 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.

- 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 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.

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 Proponents adhere to the conditions outlined in this Certification and adheres to any FERC License, 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-2022-026632