

**UTAH DEPARTMENT OF ENVIRONMENTAL QUALITY
UTAH DIVISION OF WATER QUALITY**

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| <p>IN THE MATTER OF In the Matter of: BASIN WESTERN, INC. C/O J. Lloyd Dean, Registered Agent PO Box 877 3639 E. Highway 40 Ballard, UT 84066</p> | <p>SETTLEMENT AGREEMENT</p> <p>Docket No. I19-05</p> |
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This Administrative Settlement Agreement (hereinafter "**Settlement**") is between the Director of the Utah Division of Water Quality ("**Director**") and Basin Western, Inc. ("**Respondent**") pursuant to the Director's authority to administer the Utah Water Quality Act. The **Director** and **Respondent** are sometimes referred to hereinafter as "**the Parties.**"

1. The **Director** has authority to administer the Utah Water Quality Act ("the **Act**") pursuant to Utah Code Section 19-1-105(1)(e), and has authority to enforce rules through the issuance of orders, as specified in Utah Code Sections 19-5-106(2)(d) and 19-5-111. The **Director** also has authority to settle any civil action initiated to compel compliance with the **Act** and implementing regulations pursuant to Utah Code Section 19-5-106(2)(k).
2. **Respondent** is a "person" as that term is defined in Utah Code Section 19-1-103(4).
3. This **Settlement** is entered into for the purposes of avoiding further administrative enforcement based upon the following findings and violation[s]:
4. On or about May 28, 2019 the Utah Division of Water Quality (Division) received a report of an accidental discharge of butane and diesel into Deer Creek Reservoir. This report was entered into the Utah Department of Environmental Quality's (DEQ) Incident Reporting database and assigned the number 13917. According to the report a truck hauling pressurized tank trailers of butane rolled over on a curve on US highway 189 approximately 1/2 miles south of Charleston, Utah and crashed into the reservoir, releasing an estimated 130 gallons of diesel fuel and an unknown amount of butane. The diesel fuel formed a visible sheen on the surface of the water. The Wasatch County Fire Department, the Wasatch County Health Department (WCHD), and an environmental contractor hired by the responsible party deployed booms to contain the spilled material.
5. On or about May 28, 2019, an employee of Central Utah Water Conservancy District (CUWCD) in Orem, Utah, collected water samples from Deer Creek Reservoir inside the containment boom, outside the boom approximately 100 yards from the site of the accident, and from the Provo River immediately below Deer Creek Dam. The samples were taken to Chemtech-Ford Laboratories in Sandy, Utah for analysis of concentrations of Gasoline Range and Diesel Range Organic compounds.

6. On or about June 3, 2019, the Division received a copy of the laboratory report with the results of analysis of the water samples collected on May 28, 2019. The results of the samples are summarized below (**red** indicates a violation of Utah Water Quality Narrative Standards):

| Chemical Parameter | Inside Booms | 100 yards away | Below Dam |
|-------------------------|-----------------|----------------|--------------|
| Gasoline Range Organics | Not Detected | Not Detected | Not Detected |
| Diesel Range Organics | 1.8 mg/L | Not Detected | Not Detected |

7. On or about May 31, 2019, an employee of CUWCD returned to the accident site with a WCHD representative and collected more water samples from the reservoir inside the containment boom, outside the boom approximately 100 yards away, and from the Provo River immediately below Deer Creek Dam. The samples were taken to Chemtech-Ford Laboratories in Sandy Utah, and the samples from the reservoir at or near the accident site were analyzed for Diesel Range Organic Compounds and Benzene, ethylbenzene, naphthalene, toluene, and xylenes. The sample collected from the river below the dam was analyzed for Gasoline Range and Diesel Range organic compounds. According to the analytical report received by the Division on or about June 10, 2019, none of the water samples contained detectable amounts of these compounds. Based on these results and visual evidence, a representative of Wasatch County Health Department determined the containment booms should be removed.
8. In response to the discharge, the **Director** issued a Notice of Violation and Compliance Order Docket No. 119-05 (NOV/CO) to **Respondent** on August 5, 2019.
9. The **Parties** voluntarily enter into this **Settlement** to resolve the NOV/CO issued to the **Respondent** without the necessity of further administrative or judicial proceedings.
10. **Respondent** understands and agrees that a penalty in the amount of \$3,667.00 is appropriate based on the application of DWQ's penalty policy contained in Utah Administrative Code R317-1-8 as applied to the violation(s) under the circumstances specified herein. This proposed settlement and penalty is subject to a thirty (30) day notice and comment period as provided for in Utah Administrative Code R305-7-402. The **Parties** each reserve the right to withdraw from this **Settlement** if comments received during the notice period result in a modification to the terms and conditions.
11. By entering into this **Settlement**, **Respondent** neither admits nor denies the findings, violations or deficiencies specified herein.
12. Respondent agrees to the terms, conditions and requirements of this **Settlement**. By signing this **Settlement**, Respondent understands, acknowledges and agrees that it waives: (1) the opportunity for an administrative hearing pursuant to Utah Code § 19-1-301; (2) the right to contest the finding(s) in Notice of Violation and Compliance Order, Docket No. I19-05; and (3) the opportunity for judicial review.
13. The **Parties** mutually agree that this **Settlement** is entered in good faith and is an appropriate means to resolve the matters specified herein.

- 14. This **Settlement** will be final after the thirty day notice and comment period, on the date the **Director** signs the **Settlement**,
- 15. **Respondent** agrees that within fifteen (15) calendar days of receiving the signed and final **Settlement** from the **Director**, Respondent shall submit a certified or cashier's check written to the Division of Water Quality in the amount specified in paragraph 10, above and hand deliver or send by certified mail to:

Division of Water Quality
 PO Box 144870
 Salt Lake City, Utah 84114-4870

- 16. Notwithstanding paragraph 11 above, the violations described herein will constitute part of **Respondent's** compliance history where such history is relevant, including any subsequent violations. **Respondent** understands and agrees that this **Settlement** is not and cannot be raised as a defense to any other action to enforce any federal, state or local law.
- 17. This **Settlement**, when final, is binding upon **Respondent** and any corporate subsidiaries or parents, their officers, directors, employees, successors in interest, and assigns. The undersigned warrants that it is authorized to legally bind their respective principals to this **Settlement**.

ACCEPTED BY BASIN WESTERN, INC.:

Name (print) JASON DEAN
 Title (print) President
 Signature [Signature]
 Date 3-3-20

DIVISION OF WATER QUALITY
Erica B. Gaddis Date 3/3/20
 Erica Brown Gaddis, PhD
 Director