

Official Draft Public Notice Version **September 1, 2021**

The findings, determinations, and assertions contained in this document are not final and subject to change following the public comment period.

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

OPERATING PERMIT FOR TREATMENT AND DISPOSAL OF WASTEWATER

Operating Permit No. **UTOP8001**

In compliance with provisions of the Utah *Water Quality Act, Title 19, Chapter 5, Utah Code Annotated ("UCA") 1953, as amended* (the "Act"),

BEST FRIENDS ANIMAL SOCIETY

is hereby authorized to discharge treated effluent from its onsite wastewater systems, in accordance with specific limitations and other conditions set forth herein.

This permit shall become effective on **MONTH 1, 20xx**.

This permit expires at midnight on **MONTH XX, 20xx**.

Signed this day of **MONTH, 20xx**.

Erica Brown Gaddis, PhD
Director

DWQ-2021-015145

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PND DRAFT

I. DISCHARGE LIMITATIONS AND REPORTING REQUIREMENTS

- A. Description of Discharge Points. The authorization to treat and discharge wastewater provided under this part is limited to onsite wastewater systems (OWS) at authorized discharge locations. A discharge at any location not authorized under this permit is a violation of the *Act* and may be subject to penalties under the *Act*. Knowingly discharging from an unauthorized location or failing to report an unauthorized discharge may be subject to criminal penalties as provided under the *Act*.
- B. Narrative Standard. It shall be unlawful, and a violation of this permit, for the permittee 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 a bioassay or other tests performed in accordance with standard procedures.
- C. Specific Limitations and Self-Monitoring Requirements.
1. Effective immediately, and lasting through the life of this permit, there shall be no acute or chronic toxicity in any OWS or holding tank authorized under this permit.
 2. OWS discharges shall be limited and monitored by the permittee as required in UCA R317-4.
 3. Water quality shall be monitored via collection of water samples as listed in Table 1, Table 2, and Table 3 below:
 - a. Water Monitoring Sample Collection Locations

Table 1: Water Monitoring Sample Collection Locations		
Name	Description	Location
<i>Upgradient Monitoring Locations</i>		
Kanab Creek North*	Junction of Peekaboo Trail and Kanab Creek	37.156406° N -112.539189° W
Big Lake Spring	Near Big Lake Meetinghouse on Lake House Road	37.156853° N -112.543405° W
Honeybee Spring	Off ATV trail near Honeybee Pasture	37.153252° N -112.541088° W
<i>Downgradient Monitoring Locations</i>		
Kanab Creek South*	USGS gage on HWY 89	37.100694° N -112.547694° W
Hackleberry Spring	Behind the Rock House	37.125855° N -112.545983° W
Well #2	DDW Source # 13049WS003	37.135531° N -112.543030° W
Well #3	DDW Source # 13049WS009	37.135593° N -112.542654° W

* Samples collected from Kanab Creek locations are from surface water sources and are collected to demonstrate no surface water discharge and as upstream and downstream references.

b. Self-Monitoring Requirements for Water Sampling and Reporting

Analyte	Frequency	Sample Type	Units
Total Dissolved Solids (TDS)*	Semi-Annual	Grab	mg/L
Nitrate (as N)	Semi-Annual	Grab	mg/L
Total Inorganic Nitrogen (TIN) (as N)	Semi-Annual	Grab	mg/L

*TDS samples are not required from surface water sample collection locations.

c. Water Quality Limitations

Analyte	Limitation
TDS*	300 mg/L
Nitrate (as N)	5.0 mg/L
TIN (as N)	5.0 mg/L

*TDS samples are not required from surface water sample collection locations.

4. Sampling and Analysis Plan

a. A Sampling and Analysis Plan (SAP) shall be required to be submitted to the Division of Water Quality (Division) within 90 days of permit issuance for review and approval.

- i. A project-specific SAP should address the purpose of monitoring, data quality objectives, frequency of sample collection, sample types, collection methods, analytical methods, sample handling, chain of custody, quality assurance requirements, assessment and review, record keeping, data handling, data storage, and project team roles and responsibilities.
- ii. Please refer to the Division’s SAP checklist for a formal list of SAP requirements.
- iii. Project-specific SAPs will be reviewed and approved by the Division before project implementation.

<https://documents.deq.utah.gov/water-quality/monitoring-reporting/cooperative-monitoring/DWQ-2017-001770.pdf>

5. Non-Compliance-Action and Protection Levels

Ground water protection will be achieved in a two-step approach using an Action Level of 2.5 mg/L of TIN (as N) and a Protection Level of 5.0 mg/L of TIN (as N) as shown in Table 3.

Action Level

If the TIN (as N) of a down-gradient monitoring location exceeds 2.5 mg/L of TIN (as N) BFAS shall immediately resample. If the result of the re-sample is above 2.5 mg/L of TIN (as N) BFAS shall begin monthly sampling.

If the average of three, monthly sampling events exceeds 2.5 mg/L of TIN (as N) BFAS shall submit a report for Director review and approval to DWQ within 90 days of the exceedance which includes a review of the model and hydrogeology of the area. BFAS shall also review operation and maintenance of all discharging facilities on site and any other relevant factors. The report shall include recommended actions necessary to stabilize and lower Nitrate values in monitoring location(s).

Protection Level

If the TIN (as N) of a down-gradient monitoring location exceeds 5.0 mg/L, BFAS shall immediately resample. If the result of the re-sample is above 5.0 mg/L of TIN (as N), BFAS shall begin monthly sampling.

If the average of three, monthly sampling events exceeds 5.0 mg/L of TIN (as N), BFAS shall submit a Ground Water discharge application within 180 days. BFAS may be required to take Corrective Action in accordance with R317-6-6(6.15).

6. Acute/Chronic Whole Effluent Toxicity (WET) Testing

No toxicity testing is included in this permit, however this permit may be reopened and modified (following proper administrative procedures) to include WET testing, a WET limitation, a compliance schedule, a compliance date, additional or modified numerical limitations, or any other conditions related to the control of toxicants if toxicity is detected during the life of this permit.

D. Operations.

1. A wastewater management plan (WMP) shall be required to be submitted to the Division within 90 days of permit issuance for review and approval.
2. Effective immediately and lasting the duration of this permit, Best Friends Animal Society personnel shall monitor operations as described in the Division-approved WMP.
3. A State of Utah Certified Onsite Professional of at least Level 2, as described in UCA R317-11, will inspect all OWS locations and equipment at a frequency described in the Division-approved WMP.

E. Management Practices for Disposal of Treated Effluent.

1. The application of treated effluent from any onsite wastewater system to surface waters or upon the surface of the ground is prohibited.
2. The use of any OWS or holding tank may not result in a surface water runoff.
3. The use of any OWS or holding tank may not result in the creation of an unhealthy or nuisance condition, as determined by the local health department.
4. The collection, storage, transportation, and disposal of all liquid wastes by liquid waste operators shall be accomplished in accordance with UCA R317-550.
5. The collection, storage, transportation, and disposal of all liquid wastes by liquid waste operators shall be accomplished in a sanitary manner which does not create a public health hazard or nuisance, or adversely affect the quality of the waters of the State.
6. A liquid waste operator shall have a current permit issued by the Southwest Utah Public Health Department (SWUPHD) prior to initiating any liquid waste operation.

F. Reporting.

1. Reporting of Water Quality Monitoring Results

Monitoring results obtained during the calendar year (January 1st through December 31st) shall be summarized and submitted to the Division in an annual report. The permittee shall maintain annual reports on file and these shall be made available to the Division upon request. The semi-annual monitoring results from all monitoring locations shall be included in the annual report. Annual reports shall be submitted to the Director by March 28th of the following year under the effective dates of this permit. The annual report shall include all results culminated from Tables 1-3 in a tabular summary of the values of all samples and analyses required by this permit. Legible copies of these, and all other reports required herein, shall be signed and certified in accordance with the requirements of Signatory Requirements (see *Part VII.G*), and submitted to the Division of Water Quality via the Division of Water Quality – Water Quality Electronic Submissions portal at:

<https://deq.utah.gov/water-quality/water-quality-electronic-submissions>

With e-Delivery Submittal Purpose of Submission:

Best Friends Animal Society Annual Report – Operating Permit No. UTOP8001.

2. A Sampling and Analysis Plan (SAP) will be required to be submitted to the Division within 90 days of permit issuance for review and approval.

The SAP shall be signed and certified in accordance with the requirements of Signatory Requirements (see *Part VII.G*), and submitted to the Division of Water Quality via the Division of Water Quality – Water Quality Electronic Submissions portal at:

<https://deq.utah.gov/water-quality/water-quality-electronic-submissions>

With e-Delivery Submittal Purpose of Submission:

Best Friends Animal Society Annual Report – Operating Permit No. UTOP8001.

3. The permittee shall report to the Division any Sample that fails to meet the water quality limitations shown in Table 3 as required in *Part V* of this permit.
4. An inventory of onsite wastewater systems (OWS) located on the Best Friends Animal Society site shall be required to be submitted to the Division for review and approval within 90 days of permit issuance.

G. Regulatory Authority.

1. Construction and approvals are issued pursuant to the provisions of Utah Water Quality Act Sections 19-5-104, 19-5-106, 19-5-107 and 19-5-108. Violation of these permits or approvals including compliance with the conditions thereof, or beginning construction, or modification without the director's approval, is subject to the penalties provided in Section 19-5-115.
2. The SWUPHD has jurisdiction to administer UCA R317-4, including the authority to issue OWS permits, within the permitted site.
3. Any proposed large underground wastewater disposal system constructed to serve additional buildings or to consolidate multiple existing OWS shall be under the jurisdiction of the Division and shall be administered as required in UCA R317-5.

II. BIOSOLIDS REQUIREMENTS

Any septage or sludge collected from any OWS or holding tank shall be managed by a licensed liquid waste operator as defined in UCA R317-550. Waste collected from any OWS or holding tank shall be disposed of at an approved location in accordance with UCA R317-550-7. The State of Utah has adopted the 40 CFR 503 federal regulations for the disposal of septage and sewage sludge (biosolids) by reference. The permittee is not a POTW and is not required to apply for a biosolids permit as an initial condition of this permit. The permittee shall comply with biosolids permitting if the Division determines a permit is necessary upon review of this permit.

III. PRETREATMENT REQUIREMENTS

A. Discharge to POTW.

1. Any wastewaters discharged to the sanitary sewer, either as a direct discharge or as a hauled waste, are subject to Federal, State and local pretreatment regulations. Pursuant to Section 307 of the Water Quality Act of 1987, the permittee shall comply with all applicable federal General Pretreatment Regulations promulgated at 40 CFR 403, the State Pretreatment Requirements at UAC R317-8-8, and any specific local discharge limitations developed by the Publicly Owned Treatment Works (POTW) accepting the wastewaters.
2. To discharge into a POTW, the permittee must
 - a. Meet the requirements of Part I E and Part III B., C., and D,
 - b. Meet any local discharge requirements per the POTW accepting the waste,
 - c. Receive approval from the POTW accepting the waste, and
 - d. Provide a summary of any wastewater discharged to a POTW in the annual report described in Part I F.

B. Hazardous Waste Notification. The permittee must notify the POTW, the EPA Regional Waste Management Director, the Director and the State hazardous waste authorities, in writing, if they discharge any substance into a POTW which if otherwise disposed of would be considered a hazardous waste under 40 CFR 261. This notification must include the name of the hazardous waste, the EPA hazardous waste number, and the type of discharge (continuous or batch).

C. General and Specific Prohibitions.

1. **General Prohibitions.** The permittee may not introduce into a POTW any pollutant(s) which cause Pass Through or Interference. These general prohibitions and the specific prohibitions in paragraph 2. of this section apply to the introducing pollutants into a POTW whether or not the permittee is subject to other National Pretreatment Standards or any national, State, or local Pretreatment Requirements.
2. **Specific Prohibitions.** The following pollutants shall not be introduced into a POTW:
 - a. Pollutants which create a fire or explosion hazard in the publicly owned treatment works (POTW), including, but not limited to, wastestreams with a closed cup flashpoint of less than 140°F (60°C);
 - b. Pollutants, which will cause corrosive structural damage to the POTW, but in no case, discharges with a pH lower than 5.0;
 - c. Solid or viscous pollutants in amounts which will cause obstruction to the flow in the POTW resulting in interference;
 - d. Any pollutant, including oxygen demanding pollutants (BOD, etc.), released in a discharge at such volume or strength as to cause interference in the POTW;

- e. Heat in amounts, which will inhibit biological activity in the POTW, resulting in interference, but in no case, heat in such quantities that the influent to the sewage treatment works exceeds 104°F (40°C));
 - f. Petroleum oil, nonbiodegradable cutting oil, or products of mineral oil origin in amounts that will cause interference or pass through;
 - g. Pollutants, which result in the presence of toxic gases, vapor, or fumes within the POTW in a quantity that may cause worker health or safety problems;
 - h. Any trucked or hauled pollutants, except at discharge points designated by the POTW; or
 - i. Any pollutant that causes pass through or interference at the POTW.
- D. Categorical Standards. In addition to the general and specific limitations expressed in *Part II. C.* of this section, applicable National Categorical Pretreatment Standards must be met by all industrial users discharging into a POTW. These standards are published in the federal regulations at *40 CFR 405 through 471.*
- E. Definitions. For this section the following definitions shall apply:
- 1. *Indirect Discharge* means the introduction of pollutants into a publicly-owned treatment works (POTW) from any non-domestic source regulated under section 307 (b), (c) or (d) of the CWA.
 - 2. *Interference* means a discharge which, alone or in conjunction with a discharge or discharges from other sources, both:
 - a. Inhibits or disrupts the POTW, its treatment processes or operations, or its sludge processes, use or disposal; and
 - b. Therefore is a cause of a violation of any requirement of the POTW's NPDES permit (including an increase in the magnitude or duration of a violation) or of the prevention of sewage sludge use or disposal in compliance with the following statutory provisions and regulations or permits issued thereunder (or more stringent State or local regulations): Section 405 of the Clean Water Act, the Solid Waste Disposal Act (SWDA) (including title II, more commonly referred to as the Resource Conservation and Recovery Act (RCRA), and including State regulations contained in any State sludge management plan prepared pursuant to subtitle D of the SWDA), the Clean Air Act, the Toxic Substances Control Act, and the Marine Protection, Research and Sanctuaries Act.
 - 3. *Pass Through* means a Discharge which exits the POTW into waters of the United States in quantities or concentrations which, alone or in conjunction with a discharge or discharges from other sources, is a cause of a violation of any requirement of the POTW's NPDES permit (including an increase in the magnitude or duration of a violation).

4. *Publicly Owned Treatment Works* or *POTW* means a treatment works as defined by section 212 of the CWA, which is owned by a State or municipality (as defined by section 502(4) of the CWA). This definition includes any devices and systems used in the storage, treatment, recycling and reclamation of municipal sewage or industrial wastes of a liquid nature. It also includes sewers, pipes and other conveyances only if they convey wastewater to a POTW Treatment Plant. The term also means the municipality as defined in section 502(4) of the CWA, which has jurisdiction over the Indirect Discharges to and the discharges from such a treatment works.
5. *Significant industrial user (SIU)* is defined as an industrial user discharging to a POTW that satisfies any of the following:
 - a. Has a process wastewater flow of 25,000 gallons or more per average work day;
 - b. Has a flow greater than five percent of the flow carried by the municipal system receiving the waste;
 - c. Is subject to Categorical Pretreatment Standards, or
 - d. Has a reasonable potential for adversely affecting the POTW's operation or for violating any pretreatment standard or requirement.
6. *User or Industrial User (IU)* means a source of Indirect Discharge.

IV. STORM WATER REQUIREMENTS.

A. Industrial Storm Water Permit. Based on the type of industrial activities occurring at the facility, the permittee may be required to maintain separate coverage or an appropriate exclusion under the Multi-Sector General Permit (MSGP) for Storm Water Discharges Associated with Industrial Activities (UTR000000). The Utah Administrative Code (UCA) R-317-8-3.9 requires storm water permit provisions to include the development of a storm water pollution prevention plan for wastewater treatment facilities if the facility meets one or both of the following criteria.

1. Wastewater treatment facilities with a design flow of 1.0 MGD or greater, and/or,
2. Wastewater treatment facilities with an approved pretreatment program as described in 40 CFR Part 403,

The permittee does not meet either of the above criteria; therefore, this permit does not include storm water provisions. The permit does however include a storm water re-opener provision.

B. Construction Storm Water Permit. Any construction at the facility that disturbs an acre or more of land, including less than an acre if it is part of a common plan of development or sale, is required to obtain coverage under the UPDES Construction General Storm Water Permit (UTRC00000). Permit coverage shall be obtained prior to land disturbance. If the site qualifies, a Low Erosivity Waiver (LEW) Certification may be submitted instead of permit coverage.

V. MONITORING, RECORDING & GENERAL REPORTING REQUIREMENTS

- A. Representative Sampling. Samples taken in compliance with the monitoring requirements established under *Part I* shall be collected from groundwater sources prior to discharge into the receiving waters. Samples and measurements shall be representative of the volume and nature of the monitored discharge.
- B. Monitoring Procedures. Monitoring shall be conducted according to test procedures approved under *Utah Administrative Code ("UCA") R317-2-10 and 40CFR Part 503*, unless other test procedures have been specified in this permit.
- C. Penalties for Tampering. The *Act* provides that any person who falsifies, tampers with, or knowingly renders inaccurate, any monitoring device or method required to be maintained under this permit shall, upon conviction, be punished by a fine of not more than \$10,000 per violation, or by imprisonment for not more than six months per violation, or by both.
- D. Compliance Schedules. Reports of compliance or noncompliance with, or any progress reports on, interim and final requirements contained in any Compliance Schedule of this permit shall be submitted no later than 14 days following each schedule date.
- E. Additional Monitoring by the Permittee. If the permittee monitors any parameter more frequently than required by this permit, using test procedures approved under *UCA R317-2-10 and 40 CFR 503* or as specified in this permit, the results of this monitoring shall be included in the calculation and reporting of the data submitted in the Annual Report or the Biosolids Report Form. Such increased frequency shall also be indicated. Only those parameters required by the permit need to be reported.
- F. Records Contents. Records of monitoring information shall include:
1. The date, exact place, and time of sampling or measurements;
 2. The individual(s) who performed the sampling or measurements;
 3. The date(s) and time(s) analyses were performed;
 4. The individual(s) who performed the analyses;
 5. The analytical techniques or methods used; and,
 6. The results of such analyses.
- G. Retention of Records. The permittee shall retain records of all monitoring information, including all calibration and maintenance records, copies of all reports required by this permit, and records of all data used to complete the application for this permit, for a period of at least five years from the date of the sample, measurement, report or application. This period may be extended by request of the Director at any time. A copy of this permit shall be maintained on site during the duration of activity at the permitted location.

H. Twenty-four Hour Notice of Noncompliance Reporting.

1. The permittee shall (orally) report any noncompliance including transportation accidents, spills, and uncontrolled runoff from biosolids which may seriously endanger health or environment, as soon as possible, but no later than twenty-four (24) hours from the time the permittee first became aware of circumstances. The report shall be made to the Division of Water Quality, (801) 536-4300, or 24-hour answering service (801) 536-4123.
 2. The following occurrences of noncompliance shall be reported by telephone (801) 536-4300 as soon as possible but no later than 24 hours from the time the permittee becomes aware of the circumstances:
 - a. Any noncompliance which may endanger health or the environment;
 - b. Any unanticipated bypass, which exceeds any effluent limitation in the permit (See *Part VI.G, Bypass of Treatment Facilities.*);
 - c. Any upset which exceeds any effluent limitation in the permit (See *Part VI.H, Upset Conditions.*);
 - d. Violation of a water quality limitation for any of the pollutants listed in the permit; or,
 - e. Violation of any of the metals limits, the pathogen limits, the vector attraction reduction limits or the management practices for biosolids that have been sold or given away.
 3. A written submission shall also be provided within five days of the time that the permittee becomes aware of the circumstances. The written submission shall contain:
 - a. A description of the noncompliance and its cause;
 - b. The period of noncompliance, including exact dates and times;
 - c. The estimated time noncompliance is expected to continue if it has not been corrected;
 - d. Steps taken or planned to reduce, eliminate, and prevent reoccurrence of the noncompliance; and,
 - e. Steps taken, if any, to mitigate the adverse impacts on the environment and human health during the noncompliance period.
 4. The Director may waive the written report on a case-by-case basis if the oral report is received within 24 hours by the Division of Water Quality, (801) 536-4300.
 5. Reports shall be submitted to the addresses in *Part I.F, Reporting of Monitoring Results.*
- I. Other Noncompliance Reporting. Instances of noncompliance not required to be reported within 24 hours shall be reported at the time that monitoring reports for *Part I.F* are submitted. The reports shall contain the information listed in *Part V.H.iii.*

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- J. Inspection and Entry. The permittee shall allow the Director, or an authorized representative, upon the presentation of credentials and other documents as may be required by law, to:
1. Enter upon the permittee's premises where a regulated facility or activity is located or conducted, or where records must be kept under the conditions of the permit;
 2. Have access to and copy, at reasonable times, any records that must be kept under the conditions of this permit;
 3. Inspect at reasonable times any facilities, equipment (including monitoring and control equipment), practices, or operations regulated or required under this permit, including but not limited to, biosolids treatment, collection, storage facilities or area, and liquid waste transport vehicles and containers;
 4. Sample or monitor at reasonable times, for the purpose of assuring permit compliance or as otherwise authorized by the *Act*, any substances or parameters at any location, including, but not limited to, liquid waste transfer or staging areas, any ground or surface waters, or vegetation on the permitted site; and,
 5. The permittee shall make the necessary arrangements with the landowner or leaseholder to obtain permission or clearance, and the Director, or authorized representative, upon the presentation of credentials and other documents as may be required by law, shall be permitted to enter without delay for the purposes of performing their responsibilities.

VI. COMPLIANCE RESPONSIBILITIES

- A. Duty to Comply. The permittee shall comply with all conditions of this permit. Any permit noncompliance constitutes a violation of the *Act* and is grounds for enforcement action; for permit termination, revocation and reissuance, or modification; or for denial of a permit renewal application. The permittee shall give advance notice to the Director of any planned changes in the permitted facility or activity, which may result in noncompliance with permit requirements.
- B. Penalties for Violations of Permit Conditions. The *Act* provides that any person who violates a permit condition implementing provisions of the *Act* is subject to a civil penalty not to exceed \$10,000 per day of such violation. Any person who willfully or negligently violates permit conditions or the *Act* is subject to a fine not exceeding \$25,000 per day of violation. Any person convicted under *UCA 19-5-115(2)* a second time shall be punished by a fine not exceeding \$50,000 per day. Except as provided at *Part VI.G, Bypass of Treatment Facilities* and *Part VI.H, Upset Conditions*, nothing in this permit shall be construed to relieve the permittee of the civil or criminal penalties for noncompliance.
- C. Need to Halt or Reduce Activity not a Defense. It shall not be a defense for a permittee in an enforcement action that it would have been necessary to halt or reduce the permitted activity in order to maintain compliance with the conditions of this permit.
- D. Duty to Mitigate. The permittee shall take all reasonable steps to minimize or prevent any discharge in violation of this permit, which has a reasonable likelihood of adversely affecting human health or the environment. The permittee shall also take all reasonable steps to minimize or prevent any land application in violation of this permit.
- E. Proper Operation and Maintenance. The permittee shall at all times properly operate and maintain all facilities and systems of treatment and control (and related appurtenances) which are installed or used by the permittee to achieve compliance with the conditions of this permit. Proper operation and maintenance also includes adequate laboratory controls and quality assurance procedures. This provision requires the operation of back-up or auxiliary facilities or similar systems, which are installed by a permittee only when the operation is necessary to achieve compliance with the conditions of the permit.
- F. Removed Substances. Collected screening, grit, solids, sludge, or other pollutants removed in the course of treatment shall be disposed of in such a manner so as to prevent any pollutant from entering any waters of the state or creating a health hazard. Liquid waste may not directly enter either the final effluent or waters of the state by any other direct route.
- G. Bypass of Treatment Facilities.
1. Bypass Not Exceeding Limitations. The permittee may allow any bypass to occur which does not cause effluent limitations to be exceeded, but only if it also is for essential maintenance to assure efficient operation. These bypasses are not subject to paragraph 2 and 3 of this section.
 2. Prohibition of Bypass.
 - a. Bypass is prohibited, and the Director may take enforcement action against a permittee for bypass, unless:

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- i. Bypass was unavoidable to prevent loss of human life, personal injury, or severe property damage;
 - ii. There were no feasible alternatives to bypass, such as the use of auxiliary treatment facilities, retention of untreated wastes, or maintenance during normal periods of equipment downtime. This condition is not satisfied if adequate backup equipment should have been installed in the exercise of reasonable engineering judgement to prevent a bypass which occurred during normal periods of equipment downtime or preventive maintenance, and
 - iii. The permittee submitted notices as required under *section VI.G.3*.
 - b. The Director may approve an anticipated bypass, after considering its adverse effects, if the Director determines that it will meet the three conditions listed in *sections VI.G.2.a (1), (2) and (3)*.
- 3. Notice.
 - a. *Anticipated bypass*. Except as provided above in *section VI.G.2* and below in *section VI.G.3.b*, if the permittee knows in advance of the need for a bypass, it shall submit prior notice, at least ninety days before the date of bypass. The prior notice shall include the following unless otherwise waived by the Director:
 - i. Evaluation of alternative to bypass, including cost-benefit analysis containing an assessment of anticipated resource damages;
 - ii. A specific bypass plan describing the work to be performed including scheduled dates and times. The permittee shall notify the Director in advance of any changes to the bypass schedule;
 - iii. Description of specific measures to be taken to minimize environmental and public health impacts;
 - iv. A notification plan sufficient to alert all downstream users, the public and others reasonably expected to be impacted by the bypass;
 - v. A water quality assessment plan to include sufficient monitoring of the receiving water before, during and following the bypass to enable evaluation of public health risks and environmental impacts; and,
 - vi. Any additional information requested by the Director.
 - b. *Emergency Bypass*. Where ninety days advance notice is not possible, the permittee shall notify the Director, and the Director of the Department of Natural Resources, as soon as it becomes aware of the need to bypass and provide to the Director the information in *section VI.G.3.a.(1) through (6)* to the extent practicable.
 - c. *Unanticipated bypass*. The permittee shall submit notice of an unanticipated bypass to the Director as required under *Part V.G Twenty-Four Hour Reporting*. The permittee shall also immediately notify the Director of the Department of Natural Resources, the public and downstream users and shall implement measures to minimize impacts to public health and environment to the extent practicable.

H. Upset Conditions.

1. Effect of an upset. An upset constitutes an affirmative defense to an action brought for noncompliance with technology-based permit effluent limitations if the requirements of paragraph 2 of this section are met. Director's administrative determination regarding a claim of upset cannot be judiciously challenged by the permittee until such time as an action is initiated for noncompliance.
2. Conditions necessary for a demonstration of upset. A permittee who wishes to establish the affirmative defense of upset shall demonstrate, through properly signed, contemporaneous operating logs, or other relevant evidence that:
 - a. An upset occurred and that the permittee can identify the cause(s) of the upset;
 - b. The permitted facility was at the time being properly operated;
 - c. The permittee submitted notice of the upset as required under *Part V.H, Twenty-four Hour Notice of Noncompliance Reporting*; and,
 - d. The permittee complied with any remedial measures required under *Part VI.D, Duty to Mitigate*.
3. Burden of proof. In any enforcement proceeding, the permittee seeking to establish the occurrence of an upset has the burden of proof.

VII. GENERAL REQUIREMENTS

- A. Planned Changes. The permittee shall give notice to the Director as soon as possible of any planned physical alterations or additions to the permitted facility. Notice is required only when the alteration or addition could significantly change the nature or increase the quantity of parameters discharged or pollutant sold or given away. This notification applies to pollutants, which are not subject to effluent limitations in the permit. In addition, if there are any planned substantial changes to the permittee's existing liquid waste collection or transportation equipment or appurtenances or their manner of operation or to current liquid waste management practices of storage and disposal, the permittee shall give notice to the Director of any planned changes at least 30 days prior to their implementation.
- B. Anticipated Noncompliance. The permittee shall give advance notice to the Director of any planned changes in the permitted facility or activity, which may result in noncompliance with permit requirements.
- C. Permit Actions. This permit may be modified, revoked and reissued, or terminated for cause. The filing of a request by the permittee for a permit modification, revocation and reissuance, or termination, or a notification of planned changes or anticipated noncompliance, does not stay any permit condition.
- D. Duty to Reapply. If the permittee wishes to continue an activity regulated by this permit after the expiration date of this permit, the permittee shall apply for and obtain a new permit. The application shall be submitted at least 180 days before the expiration date of this permit.
- E. Duty to Provide Information. The permittee shall furnish to the Director, within a reasonable time, any information which the Director may request to determine whether cause exists for modifying, revoking and reissuing, or terminating this permit, or to determine compliance with this permit. The permittee shall also furnish to the Director, upon request, copies of records required to be kept by this permit.
- F. Other Information. When the permittee becomes aware that it failed to submit any relevant facts in a permit application, or submitted incorrect information in a permit application or any report to the Director, it shall promptly submit such facts or information.
- G. Signatory Requirements. All applications, reports or information submitted to the Director shall be signed and certified.
1. All permit applications shall be signed by either a principal executive officer or ranking elected official.
 2. All reports required by the permit and other information requested by the Director shall be signed by a person described above or by a duly authorized representative of that person. A person is a duly authorized representative only if:
 - a. The authorization is made in writing by a person described above and submitted to the Director, and,
 - b. The authorization specifies either an individual or a position having responsibility for the overall operation of the regulated facility, such as the position of plant manager, superintendent, position of equivalent responsibility, or an individual or position

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having overall responsibility for environmental matters. A duly authorized representative may thus be either a named individual or any individual occupying a named position.

3. Changes to authorization. If an authorization under *paragraph VII.G.2* is no longer accurate because a different individual or position has responsibility for the overall operation of the facility, a new authorization satisfying the requirements of *paragraph VII.G.2* shall be submitted to the Director prior to or together with any reports, information, or applications to be signed by an authorized representative.
4. Certification. Any person signing a document under this section shall make the following certification:

"I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

- H. Penalties for Falsification of Reports. The *Act* provides that any person who knowingly makes any false statement, representation, or certification in any record or other document submitted or required to be maintained under this permit, including monitoring reports or reports of compliance or noncompliance shall, upon conviction be punished by a fine of not more than \$10,000.00 per violation, or by imprisonment for not more than six months per violation, or by both.
- I. Availability of Reports. Except for data determined to be confidential under *UCA R317-8-3.2*, all reports prepared in accordance with the terms of this permit shall be available for public inspection at the office of Director. As required by the *Act*, permit applications, permits and effluent data shall not be considered confidential.
- J. Oil and Hazardous Substance Liability. Nothing in this permit shall be construed to preclude the permittee of any legal action or relieve the permittee from any responsibilities, liabilities, or penalties to which the permittee is or may be subject under the *Act*.
- K. Property Rights. The issuance of this permit does not convey any property rights of any sort, or any exclusive privileges, nor does it authorize any injury to private property or any invasion of personal rights, nor any infringement of federal, state or local laws or regulations.
- L. Severability. The provisions of this permit are severable, and if any provisions of this permit, or the application of any provision of this permit to any circumstance, is held invalid, the application of such provision to other circumstances, and the remainder of this permit, may not be affected thereby.
- M. Transfers. This permit may be automatically transferred to a new permittee if:
 1. The current permittee notifies the Director at least 20 days in advance of the proposed transfer date;

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2. The notice includes a written agreement between the existing and new permittee's containing a specific date for transfer of permit responsibility, coverage, and liability between them; and,
 3. The Director does not notify the existing permittee and the proposed new permittee of his or her intent to modify, or revoke and reissue the permit. If this notice is not received, the transfer is effective on the date specified in the agreement mentioned in paragraph 2 above.
- N. State or Federal Laws. Nothing in this permit shall be construed to preclude the institution of any legal action or relieve the permittee from any responsibilities, liabilities, or penalties established pursuant to any applicable state law or regulation under authority preserved by *UCA 19-5-117* and *Section 510* of the *Act* or any applicable Federal or State transportation regulations, such as but not limited to the Department of Transportation regulations.
- O. Water Quality - Reopener Provision. This permit may be reopened and modified (following proper administrative procedures) to include the appropriate effluent limitations and compliance schedule, if necessary, if one or more of the following events occurs:
1. Water Quality Standards for Waters of the State to which the permittee discharges are modified in such a manner as to require different effluent limits than contained in this permit.
 2. A final wasteload allocation is developed and approved by the State and/or EPA for incorporation in this permit.
 3. Revisions to the current CWA § 208 areawide treatment management plans or promulgations/revisions to TMDLs (40 CFR 130.7) approved by the EPA and adopted by the Division which calls for different effluent limitations than contained in this permit.
- P. Biosolids – Reopener Provision. This permit may be reopened and modified (following proper administrative procedures) to include the appropriate biosolids limitations (and compliance schedule, if necessary), management practices, other appropriate requirements to protect public health and the environment, or if there have been substantial changes (or such changes are planned) in biosolids use or disposal practices; applicable management practices or numerical limitations for pollutants in biosolids have been promulgated which are more stringent than the requirements in this permit; and/or it has been determined that the permittees biosolids use or land application practices do not comply with existing applicable state of federal regulations.
- Q. Storm Water-Reopener Provision. At any time during the duration (life) of this permit, this permit may be reopened and modified (following proper administrative procedures) as per *UCA R317-8*, to include, any applicable storm water provisions and requirements, a storm water pollution prevention plan, a compliance schedule, a compliance date, monitoring and/or reporting requirements, or any other conditions related to the control of storm water discharges to "waters-of-State".
- R. Toxicity Limitation - Reopener Provision. This permit may be reopened and modified (following proper administrative procedures) to include WET testing, a WET limitation, a compliance schedule, a compliance date, additional or modified numerical limitations, or any other conditions related to the control of toxicants if toxicity is detected during the life of this permit.

VIII. DEFINITIONS

A. Wastewater.

1. *Act* means the *Utah Water Quality Act*.
2. *Aquifer Classification* UCA R317-6 defines ground water classes based on existing ground water quality, establish allowable levels of contaminants based on ground water class, and define procedures for formal classification of aquifers.
3. *Bypass* means the diversion of waste streams from any portion of a treatment facility.
4. *Chronic toxicity* occurs when during a chronic toxicity test, the 25% inhibition concentration (IC_{25}) calculated on the basis of test organism survival and growth, or survival and reproduction, is less than or equal to the effluent dilution designated as the receiving water concentration (RWC).
5. IC_{25} is a point estimate of the toxicant concentration that would cause a 25% reduction in a biological measurement of the test organism, such as reproduction or growth.
6. *CWA* means *The Federal Water Pollution Control Act*, as amended, by *The Clean Water Act of 1987*.
7. *EPA* means the United States Environmental Protection Agency.
8. *Director* means Director of the Division of Water Quality.
9. *Division* means the Utah Department of Environmental Quality, Division of Water Quality.
10. *Grab sample* is defined as a single “dip and take” sample collected at a representative point in the discharge stream.
11. *Severe Property Damage* means substantial physical damage to property, damage to the treatment facilities which causes them to become inoperable, or substantial and permanent loss of natural resources which can reasonably be expected to occur in the absence of a bypass. Severe property damage does not mean economic loss caused by delays in production.
12. *Upset* means an exceptional incident in which there is unintentional and temporary noncompliance with technology-based permit effluent limitations because of factors beyond the reasonable control of the permittee. An upset does not include noncompliance to the extent caused by operational error, improperly designed treatment facilities, inadequate treatment facilities, lack of preventative maintenance, or careless or improper operation.