

UTAH DIVISION OF WATER QUALITY

COURTHOUSE WASH WATER, LLC C/O Tom Jacobson, Development Director 5314 N. River Run Drive, Ste. 310 Provo, Utah 84064 UPDES Permit No. UT0025828	DOCKET NUMBER UTI-18-07 STIPULATED COMPLIANCE ORDER
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A. PURPOSE

1. This **STIPULATED COMPLIANCE ORDER** (“**SCO**”) is entered into voluntarily by and between the Director of the Utah Division of Water Quality (“**DIRECTOR**”), and Courthouse Wash Water, LLC (“**CWW**”). The **DIRECTOR** and **CWW** are jointly referred to hereafter as the “**PARTIES.**” The purpose of this **SCO** is to resolve all issues (consistent with the Utah Water Quality Act, Title 19 Chapter 5 of the Utah Code (**ACT**) and other applicable law) related to the UPDES permit limit exceedences of *E. coli* from January through September of 2018.

B. AUTHORITY

- 1) The **DIRECTOR** of the **UTAH DIVISION OF WATER QUALITY** (“**DIVISION**”) is authorized to issue, continue in effect, renew, revoke, modify or deny discharge permits and to issue orders in accordance with Utah Code Ann. (UCA) § 19-5-106, and to specify a schedule of compliance in a permit leading to compliance with the **ACT** pursuant to Utah Admin. Code (UAC) R317-8-5.2.
- 2) The **DIVISION** was created to administer the **ACT** under the immediate direction and control of the **DIRECTOR** pursuant to UCA § 19-1-105.
- 3) The U.S. Environmental Protection Agency (EPA) has delegated authority to the State of Utah to administer the National Pollutant Discharge Elimination System (NPDES) permit program under the Federal Clean Water Act (CWA), known in Utah as UPDES.
- 4) It is unlawful for any person to discharge a pollutant into waters of the state, unless the discharge is authorized by permit, Utah Code Ann. § 19-5-107(1)(a). See also Utah Admin. Code R317-1-2.1. Waters of the State means "all streams, lakes, ponds, marshes, watercourses, waterways, wells, springs, irrigation systems, drainage systems, and all other bodies or accumulations of water, surface and underground, natural or artificial, public or private, which are contained within, flow through, or border upon this state or any portion of the state" Utah Code Ann. § 19-5-102(23)(a).
- 5) It is unlawful to cause pollution which constitutes a menace to public health and welfare, or is harmful to wildlife, fish or aquatic life, or impairs domestic, agricultural, industrial, recreational, or other beneficial uses of water, or to place or cause to be placed any

wastes in a location where there is probable cause to believe it will cause pollution. Utah Code Ann. § 19-5-107(1)(a).

- 6) Utah Admin. Code R317-2-7.2 prohibits any person from discharging or placing any waste or other substance in such a way that waters of the state 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."
- 7) Utah Admin. Code R317-8-4.1(1)(a) requires the permittee must comply with all conditions of the UPDES permit. Any permit noncompliance is a violation of the Utah Water Quality Act.
- 8) Utah Code Ann. § 19-5-1 07(3)(a) states "It is unlawful for any person, without first securing a permit from the Director, to: make any discharge... not authorized under an existing valid discharge permit".
- 9) Utah Admin. Code R317-2-7.1 prohibits any person from discharging, or placing any wastes or other substances, in a manner that may interfere with waters' designated uses, or to cause any of the applicable standards to be violated.
- 10) **CWW** has previously obtained UPDES Permit No. UT0025828 (Permit), which authorizes discharges and establishes effluent limitations.

C. FINDINGS

- 1) **CWW** monitored the effluent, collected samples and reported sample results from the treatment system discharge fulfilling the permit requirements for each month as required.
- 2) **CWW's** UPDES Permit 30-day average limits for *E. coli* bacteria per 100 milliliters (mL) were exceeded during the months of January through July and September of 2018; and the 7-day average limits for *E. coli* bacteria per 100 mL were exceeded in January, February, March, May, June, and September of 2018, resulting in eight months of non-compliance as listed in the following table:

Monitoring Period	Outfall	Parameter	Permit Limit	Reported Measure	Exceedence %	Permit Limit	Reported Measure	Exceedence %
Month Ending			30-day Avg (#/100mL)	30-day Avg (#/100mL)		7-day Avg (#/100mL)	7-day Avg (#/100mL)	
1/31/2018	001A	E. coli	126	2400	1805	157	2400	1429
2/28/2018	001A	E. coli	126	2400	1805	157	2400	1429
3/3/2018	001A	E.coli	126	2400	1805	157	2400	1429
4/30/2018	001A	E.coli	126	144	14	157	144	NA
5/31/2018	001A	E.coli	126	200	59	157	200	27

6/30/2018	001A	E.coli	126	2400	1805	157	2400	1429
7/31/2018	001A	E.coli	126	130	3	157	130	NA
9/30/2018	001A	E.coli	126	2400	1805	157	2400	1429

D. AGREEMENT

The **DIRECTOR** hereby orders, and **CWW** agrees to, the following Compliance Order to fully resolve the matter and any requirement related to the same under all applicable laws and regulations:

- 1) **CWW** agrees to pay a penalty in the amount of \$1,000.00 within thirty (30) days of the effective date of this **SCO** by check made payable to the State of Utah delivered or mailed to:

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

- 2) The **DIRECTOR** agrees to hold in abeyance a penalty in the amount of \$3,000.00 which was calculated and adjusted for circumstances in conformance with the penalty policy outlined in *UAC 317-1-8*, for the period of six months from the date this agreement is signed by both parties and becomes effective, at which point it will be waived subject to **Part D.3** of this **SCO**.
- 3) In the event **CWW**'s UPDES Permit 30-day average limits for *E. coli* bacteria per 100 milliliters (mL) are exceeded anytime during the period of six months from the date this agreement is signed by both parties and becomes effective, **CWW** agrees to pay a penalty in the amount of \$3,000.00 within thirty (30) days of receiving an invoice from DWQ by way of a check made payable to the State of Utah delivered or mailed to the address as specified in **Part D.1** of this **SCO**.
- 4) Nothing in this **SCO** shall constitute a waiver by **CWW** of any claims it may have against third parties for costs, damages or other relief associated with the release described above. Further, nothing in this **SCO** shall prohibit or limit in any way **CWW**'s ability to seek contribution or cost recovery from third parties under Comprehensive Environmental Response, Compensation and Liability Act, Resource Conservation and Recovery Act, Clean Water Act, or other laws or regulations. **CWW** reserves all rights to any remedy not expressly prohibited by this **SCO**.

- 5) **CWW** shall supply to the **DIRECTOR** all requested information consistent with requirements of this **SCO**, the **ACT**, associated rules and permit requirements.
- 6) **CWW** shall perform the requirements of this **SCO** within the time frames set forth herein.
- 7) By executing this **SCO**, **CWW** makes no admissions concerning the findings and denies liability for the findings made within. The **PARTIES** understand and agree that this **SCO** is being entered into in an effort to resolve a dispute between the **PARTIES** and avoid any further dispute, discussion or action concerning the matters related thereto.
- 8) Disputes arising hereunder are subject to Utah Code Ann. §§ 19-5-112, 19-1-301 and 19-1-301.5, Rule 305-7 of the Utah Admin. Code, and other applicable law.
- 9) The undersigned representatives certify that they are fully authorized to enter into the terms and conditions of this **SCO** and to bind the party they represent to this **SCO**.
- 10) This **SCO** shall be effective the day upon which it has been executed by the **DIRECTOR**.

IT IS SO AGREED.

By: _____
 Name, Title
 Courthouse Wash Water, LLC

Date: _____

IT IS SO ORDERED.

 Erica Gaddis, PhD
 Director
 Utah Division of Water Quality

Date: _____