



State of Utah

GARY R. HERBERT
Governor

SPENCER J. COX
Lieutenant Governor

Department of
Environmental Quality

Alan Matheson
Executive Director

DIVISION OF WATER QUALITY
Erica Brown Gaddis, PhD
Director

FILE COPY

September 17, 2018

CERTIFIED MAIL
(Return Receipt Requested)

Mr. David Norman
Lehi City Public Works Director
153 East 100 North
Lehi, Utah 84043-9998

Subject: Lehi City Municipal Separate Storm Sewer System (MS4) Program
Consent Order, UPDES Permit No. UTR090038

Dear Mr. Norman:

Attached please find two copies of the Consent Order entered into by and between the City of Lehi ("Lehi") and Division of Water Quality ("Division"), to formally resolve the violations found during a MS4 program audit on January 16-17, 2018. If you are in agreement, please sign both documents (**do not date them**) and return to the Division within 10 days of receipt.

We are required to public notice the Consent Order for thirty days. If there are no significant changes necessary as a result of the public comment period, the Consent Order will be finalized. Once finalized, we will send you a fully executed copy for your records. If submittals are not received by the Division by the specified dates, an invoice for the penalty amount will be sent.

Your continued efforts to remain in full compliance with the provisions of your UPDES Permit are required. If you have any questions with regard to this matter, or

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City of Lehi

wish to schedule a meeting to discuss the Consent Order, please contact Trisha Di Paola at (801) 536-4193 or by e-mail at tdipaola@utah.gov.

Sincerely,



Erica Brown Gaddis, PhD
Director

EBG/lg

Enclosures (1): Consent Order - 2 copies (DWQ-2017-006882)

cc: Craig W. Anderson, Assistant Attorney General, via email w/enclosure
Bryce Larsen, Utah County Health Department, via email w/enclosure

DWQ-2018-009032

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

IN THE MATTER OF:
City of Lehi, Utah

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CONSENT ORDER

Docket No. UTM 17-02

This Consent Order is entered into by and between the Division of Water Quality (“Division”) and City of Lehi (“Lehi”) for adoption as an Order by the Director pursuant to UCA § 19-5-106(2)(d). The Division and City are sometimes jointly referred to hereinafter as the “Parties”.

RECITALS

1. Municipal Separate Storm Sewer System (MS4) permits are issued in compliance with the provisions of the Utah Water Quality Act, Title 19, Chapter 5 which authorizes storm water discharges to Waters of the State of Utah from a small MS4. On December 1, 2016, the Division modified the General Permit for Discharges from Small Municipal Separate Storm Water Permit (MS4 -UPDES Permit No. UTR090000) including requirements for discharges of urban runoff. Lehi owns and operates a MS4 through which it discharges urban runoff into waters of the state pursuant to the regulations under the terms and conditions of the Utah Pollutant Discharge Elimination System (“UPDES”).Small Permit No.UTR090038
2. Lehi agrees that the Director of the Division has jurisdiction over this matter and agrees to comply with the terms and conditions of this Consent Order.
3. Lehi understands that agreeing to this Consent Order does not resolve any liability that it may have for a violation of any state or federal environmental law.
4. Lehi understands that agreeing to this Consent Order does not mean it admits to any civil or criminal liability, or waive any right or assertion of any defense available under applicable law.
5. Lehi agrees to the terms and conditions of this Consent Order and agrees not to dispute the validity or terms of this Consent Order in any future administrative or judicial proceeding.

AGENCY DETERMINATIONS AND FINDINGS

6. The Director finds that Lehi has violated the Utah Water Quality Act or a permit issued by the Division of Water Quality (DWQ) on the grounds and for the reasons described in the DWQ audit report dated March 7, 2018. On January 16-17, 2018, the Division conducted a program audit of the City's MS4 program. The Division provided a report, dated March 7, 2018, that summarized the findings of the audit which evaluated the City's program, and found that the City failed to fully implement the MS4 program in accordance with the requirements of its UPDES permit.

COMPLIANCE PROGRAM AND SCHEDULE

7. The Director has established compliance requirements and completion deadlines. The City agrees to comply with the provisions set forth herein and the Director orders as follows:
 - a. Overall Compliance. Lehi shall fully comply with all applicable provisions of the Utah Water Quality Act and all terms and conditions of its MS4 Permit.
 - b. All actions taken pursuant to this Consent Order shall have the objective of causing Lehi to achieve and maintain full compliance with the terms and conditions of the Utah Water Quality Act and its MS4 Permit.
8. **Storm Water Management Plan (SWMP) Implementation**

No later than 30 days after the effective date, the City shall submit to DWQ, for review and comment, a revised and updated SWMP document (including: persons responsible, roles and responsibilities of all Lehi City departments in implementation, memorandum of understanding (MOUs), measurable goals, interim milestones, and frequency of action) that meets the requirements of the MS4 Permit and addresses all of the deficiencies noted in Lehi's MS4 audit report dated March 7, 2018. No later than 30 days after the effective date, Lehi shall fully implement the SWMP document. Lehi shall review the SWMP document on an annual basis at a minimum. If Lehi makes any changes to the SWMP document, other than minor corrections or adjustments, Lehi shall submit the revised provisions to DWQ for review following the Permit requirements contained in Permit Part 4.4. Changes to the SWMP document shall not be considered modifications of the Consent Order.

- a. Maintenance of SWMP. No later than 30 days after the effective date, the City shall include a link on its storm water webpage for the updated SWMP. The webpage shall clearly indicate a contact person with phone number and email address for the public to contact with any questions or comments regarding the SWMP.

- b. Resources. No later than 30 days after the effective date, the City shall ensure that there are adequate resources, including personnel, for each operating year in an amount reasonably expected to be sufficient to implement all measures in the SWMP, comply with the MS4 Permit, and comply with all requirements of the consent order.

9. **Public Education & Outreach**

No later than December 31, 2018, Lehi shall target specific pollutants and pollutant sources that may be impacting or have potential to impact the beneficial uses of receiving waters and implement a public education and outreach program to promote behavior change.

10. **Illicit Discharge Detection and Elimination (IDDE)**

- a. No later than 30 days after the effective date, Lehi must complete and maintain a current storm infrastructure map of the MS4, showing the location of all municipal storm sewer outfalls with the names and locations of all State water that receive discharges from those outfalls, storm drain pipe and other storm water conveyance structures within the MS4.
- b. No later than 30 days after the effective date, the City must develop a written spill/dumping response procedure including a flow chart for internal use, that shows the procedures for responding to public referrals of illicit discharges. Procedures must include visual inspections and collecting/analyzing samples when necessary.
- c. No later than 30 days after the effective date, the City shall implement a written plan including systematic procedures to detect and address non-storm water discharges to the MS4, including spills, illicit discharges, sanitary sewer overflow and illegal dumping. Procedures must include locating and listing priority areas likely to have illicit discharges.
- d. The City shall implement and enforce its IDDE program to systematically discover and eliminate sources of non-storm water discharges. This shall include the inspection and documentation of 50% of Lehi's outfalls using a standardized form during dry weather by October 31, 2018. The remaining 50% of outfalls must be screened and documented during dry weather by March 1, 2019. Thereafter, all outfalls shall be inspected at least once during the 5-year Permit term.
- e. No later than 30 days after the effective date, the City shall ensure sufficient education is distributed to all staff, contracted staff or other responsible entities on what constitutes an illicit discharge, the City's prohibition of such discharges, termination/ clean-up, the importance of reporting such discharges, and a clear, publicized method of reporting such discharges. Thereafter, annual IDDE training is required per the MS4 Permit.

- f. No later than October 31, 2018, the City shall have a database for mapping, tracking of the number and type of spills, illicit discharges, and illicit discharge inspections conducted in its jurisdictions. This shall include the mapping of past illicit discharges that the City has record of. Actions to be tracked shall include those of other responsible entities as well (i.e., fire department, health department, code enforcement, and police).

11. Construction Site Storm Water Runoff Control

- a. No later than December 31, 2018, the City shall implement and enforce an ordinance or other enforceable regulatory mechanism that requires the use of erosion and sediment control practices at construction sites greater than or equal to one acre of projects less than one acre if part of a larger Common Plan of Development.
- b. No later than December 31, 2018, the City shall implement an ordinance or other enforceable regulatory mechanism requiring the preparation of a SWPPP that meets, at a minimum, requirements set forth by the Construction General Permit.
- c. No later than October 31, 2018, the City shall develop and implement enforcement strategies that include escalating enforcement procedures to ensure compliance with the City ordinance.
- d. No later than 30 days after the effective date, the City shall develop and implement a Standard Operating Procedure (SOP) or similar type of document for pre-construction SWPPP review for construction projects greater than or equal to one acre or less than an acre if part of a larger Common Plan of Development. The City shall also thoroughly conduct a pre-construction SWPPP review of the site design, the planned operations at the construction site and planned Best Management Practices (BMPs).
- e. No later than 30 days after the effective date, the City shall identify priority construction sites based on the considerations outlined in the Permit and have begun bi-monthly inspections of those sites.
- f. No later than October 31, 2018, the City shall develop a SOP or similar type of document for construction site inspection and enforcement of construction storm water pollution control measures.
- g. No later than 30 days after the effective date, the City shall document all monthly and biweekly construction site inspections on a state inspection form. Documentation shall include the nature of the deficiencies, corrective action deadline, and date of re-inspection and confirmation of corrective action. Pre-construction inspections to verify installation of BMPs as well as Notice of Termination (NOT) inspections shall be documented as well.

12. *Long-Term Storm Water Management*

- a. No later than December 31, 2018, the City shall implement an ordinance or regulatory mechanism that requires long term post-construction controls at sites greater than or equal to one acre and projects less than one acre if part of a larger Common Plan of Development.
- b. No later than October 31, 2018, the City shall have an ordinance that requires a maintenance agreement requiring private property owners to conduct maintenance on site.
- c. No later than 30 days after the effective date, the City shall submit to DWQ its process to evaluate and encourage a Low Impact Development (LID) approach to storm water management for new and redevelopment projects that disturb greater than or equal to one acre including projects that are less than one acre that are part of a larger common plan of development.
- d. No later than October 31, 2018, the City will submit to DWQ its plan to retrofit existing developed sites that are adversely impacting water quality.
- e. No later than 30 days after the effective date, the City shall adopt procedures for post-construction site plan review which includes consideration of water quality impacts.
- f. No later than October 31, 2018, the City shall submit to DWQ preferred design specifications to more effectively treat storm water.
- g. The City shall have mapped all private long-term BMPs no later than 30 days after the effective date.
- h. No later than 30 days after the effective date, the City shall submit to DWQ a SOP for site inspection and enforcement of post-construction storm water controls.
- i. The City shall begin a program of annual inspection and maintenance of private long-term BMPs immediately with documentation submitted to DWQ of 50% of inventory inspected by December 31, 2018.
- j. The City shall document and ensure that all personnel with responsibilities for compliance with this section of the Consent Order receive necessary and appropriate training by October 31, 2018, as prescribed by the MS4 Permit to carry out their obligations for MS4 program implementation. Documentation shall include sign-in sheets, agenda, and synopsis of training materials.

13. **Pollution Prevention and Good Housekeeping for Municipal Operations**

- a. No later than December 31, 2018, the City shall develop and implement facility specific SWPPP documents for identified “high priority” City owned and operated facilities. “High Priority” facilities shall be identified based on the assessment required in the small MS4 Permit Part 4.2.6.2.
- b. No later than 30 days after the effective date, the City shall begin conducting and documenting using the appropriate forms, weekly visual, quarterly comprehensive, and quarterly visual inspection of storm water discharges at each of its “high priority” facilities.
- c. No later than 30 days after the effective date, the City shall develop written procedures of how to conduct weekly visual, quarterly comprehensive, and quarterly visual observation of storm water discharges at each of its “high priority” facilities. Such procedures shall indicate the location and procedures for obtaining a sample for quarterly visual observation of storm water discharges.
- d. No later than 30 days after the effective date, the City shall develop specific written procedures that address the operations at each of the “high priority facilities.” Such procedures shall include specific pollution prevention measures to prevent pollutants from the facility or facility operations from entering the storm drain system.
- e. No later than December 31, 2018, the City shall have all City owned and operated buildings with floor drains or storm water infrastructure inside the building completely mapped and kept current.
- f. No later than 30 days after the effective date, the City shall develop and implement a SOP and a schedule for street sweeping.
- g. No later than 30 days after the effective date, the City shall develop and implement a detailed catch basin cleaning SOP, including a schedule for regular inspections, cleaning and repair, and where materials will be disposed.

STIPULATED PENALTIES

14. The City shall be liable for stipulated penalties for violations of this Consent Order as specified below. A violation includes failing to perform any obligation required by the terms of this Order, including any requirement or schedule.

Requirement

Failure to submit the SWMP document required in Paragraph 8.

Penalty

\$300 per day

Failure to maintain the SWMP as required by Paragraph 8.a..	\$300 per violation
Failure to ensure adequate resources as required by Paragraph 8.b..	\$250 per violation
Failure to target specific pollutants and pollutant sources and implement a public education and outreach program required in Paragraph 9	\$250 per day
Failure to complete a current storm infrastructure map as required in Paragraph 10.a.	\$300 per day
Failure to implement written spill/dumping response procedures as required in Paragraph	\$250 per day
Failure to include illicit discharge prohibitions and education as required in Paragraph 10.c.	\$250 per person
Failure to conduct dry weather screening as required in Paragraph 10.d.	\$250 per day
Failure to have developed a database as required in Paragraph 10.f.	\$250 per day
Failure to adopt and implement regulatory mechanisms or an ordinance required in Paragraph 11.a., 11.b., 12.a., 12.b.	\$250 per day
Failure to conduct and document inspections as required in Paragraphs 11.g.	\$250 per missing inspection
Failure to develop and implement SOP's as required in 11.d, 12.h.,	\$150 per missed SOP
Failure to provide training as required in Paragraph 10.e., 12.j .	\$250 per person
Failure to conduct an assessment and determine High Priority municipal facilities as required by Paragraph 13.b.	\$250 per day
Failure to conduct and document inspections required by Paragraph 11.g., 12.i.	\$250 per missed inspection
Failure to identify priority construction sites required by Paragraph 11.e	\$250 per day

Failure to submit to DWQ the City's LID standards as required in Paragraph 12.c. \$250per day

Failure to submit to DWQ a plan to retrofit existing developed sites as required in Paragraph 12.d. \$250 per day

Failure to submit to DWQ the City's preferred design specifications for treating storm water as required in Paragraph 12.f. \$250 per day

Failure to have mapped all private basins as required \$250 per day in Paragraph 12.g.

Stipulated penalties shall accrue per violation per day for each violation of the requirements. Penalties shall be paid within 30 days of receiving written demand.

In addition, City agrees to pay \$250 for each day that a stipulated penalty payment is late.

COMPLIANCE WITH OTHER LAWS

15. This Consent Order is not a permit of any kind, does not modify any permit of any kind, nor is it an agreement to issue a permit of any kind under federal, state or local law.
16. This Consent Order does not alter, modify or revoke federal, state or local law.
17. This Consent Order is not a defense to any action to enforce any such permits or laws.
18. The City is obligated under the terms of this Consent Order to:
 - a. Apply for, obtain and comply with all applicable permits and requirements.
 - b. Comply with all applicable federal, state and local laws.
 - c. Comply with the terms and conditions of this Consent Order.

CORRESPONDENCE

19. The City shall send all correspondence, such as documents, materials, plans, notices, reports, or other items under this Consent Order to:

Division of Water Quality
Attention: Trisha Di Paola
Address: 195 North 1950 West
Telephone: 801-536-4193
Email: tdipaola@utah.gov

The Division shall send all correspondence under this Consent Order to:

Municipality: Lehi City Corporation
Attention: David Norman
Address: 135 East 100 North, Lehi UT 84043-9998
Telephone: (801) 636-7209
Email: dnorman@lehi-ut.gov

RESERVATION OF RIGHTS

20. This Consent Order is based solely upon currently available information. If additional information is discovered, which indicates that the actions under this Consent Order are or will be inadequate to protect human health, safety, or the environment, or to conform with applicable federal or state laws, the Division has the right to require further action.
21. The Director has the right to:
- a. Seek civil penalties for any and all violations of the Utah Water Quality Act, UCA, Title 19 Chapter 5 and UAC R317;
 - b. Disapprove City's work that fails to comply with this Consent Order;
 - c. Take enforcement action for any and all violations of this Consent Order;
 - d. Take enforcement action for any and all violations of UCA, Title 19 Chapter 5 and UAC R317;

VIOLATIONS OF ORDER

22. If the City fails to comply with this Consent Order, it can be liable for other administrative or judicial sanctions, including civil penalties, including but not limited to UCA § 19-5-115, the same as if for a violation of any state or federal environmental law.

MODIFICATIONS

- 23. Any modifications of this Consent Order must be in a writing signed and approved by the Parties.

EFFECTIVE DATE

- 24. The effective date of this Consent Order is the date it is signed by the Director and the City. If the Parties sign on different dates, the date of the last signature is the effective date.

TERMINATION

- 25. The Division will notify the City in writing that this Consent Order has ended when the Director determines that the City has demonstrated that all of the terms of this Consent Order have been completed or satisfied.
- 26. If the Director denies the City's request for termination, the Division will notify the City in writing and describe which terms of the Consent Order have not been completed to the Director's satisfaction.
- 27. The Director reserves the right to terminate this Consent Order unilaterally at any time for any reason, but will notify the City in writing as to the reasons for termination.

CONSENT TO ORDER

DAVID NORMAN, on behalf of the City acknowledges that he/she has read all of the terms and conditions of this Consent Order and agrees:

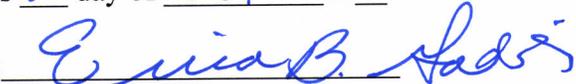
- A. With the statements made,
- B. To this Consent Order with the Division of Water Quality,
- C. As to this Consent Order, City waives all rights to an administrative appeal as may be otherwise provided for in UCA, §§ 19-1-301 or 301.5
- D. He or she is authorized to sign this Consent Order on behalf of the City.

This ___ day of ___ 20__.

By: 

SO ORDERED,

This 3rd day of Oct 2018.

By: 
Director, Division of Water Quality