

## UTAH DIVISION OF WATER QUALITY

**IN THE MATTER OF  
NORTH UTAH COUNTY WATER  
CONSERVANCY DISTRICT**

**DOCKET NUMBER I16-07  
SETTLEMENT AGREEMENT**

This **SETTLEMENT AGREEMENT** (hereinafter "**AGREEMENT**") is between **NORTH UTAH COUNTY WATER CONSERVANCY DISTRICT** (hereinafter "**OPERATOR**") and the **DIRECTOR OF THE UTAH DIVISION OF WATER QUALITY** (hereinafter the "**DIRECTOR**"), concerning violations of the *Utah Water Quality Act* (the *Act*), *Utah Code Annotated*, and the *Utah Administrative Code*.

1. The **DIRECTOR** has authority to administer the *Utah Water Quality Act, as amended 1953*, as specified in *UCA 19-5-106(2)(d)* (hereinafter the "**ACT**").
2. The **DIRECTOR** has been delegated authority by the U.S. Environmental Protection Agency (EPA) to administer the *National Pollutant Discharge Elimination System (NPDES)* permit program under the *Federal Clean Water Act (CWA)*.
3. The parties met on November 30, 2016 to discuss the **NOTICE OF VIOLATION** and the facts and circumstances surrounding the incident, and now desire to resolve this matter fully without further administrative proceedings except to the extent provided herein by entering into this **AGREEMENT**. Entering into this **AGREEMENT** is not an admission of liability or factual allegation set out in the **NOTICE**, nor is it an admission of or an agreement to any disputed facts or disputed legal theories, nor is it an admission of any violation of any law, rule, regulation or permit by the **OPERATOR**.
4. The **DIRECTOR** will administer the terms and provisions of this **AGREEMENT**.
5. This **AGREEMENT** resolves the **NOTICE OF VIOLATION** and **ORDER**, Docket Number I16-07 (hereinafter the "**NOTICE**"), between the **OPERATOR** and the **DIRECTOR**, issued to the **OPERATOR** in September 28, 2016, by the **DIRECTOR**. It does not in any way relieve the **OPERATOR** from any other obligation imposed under the Act or any other State or Federal laws.
6. In resolution of said **NOTICE** in Paragraph 5 of this **AGREEMENT**:
  - A. The **OPERATOR** agrees to pay a penalty in the amount of \$52,500 and associated costs incurred by the Division of Water Quality in the amount of \$92,622.55 for a total of \$145,122.55, which was calculated and adjusted for circumstances in conformance with the penalty policy outlined in *UAC 317-1-8*, according to the following payment schedule:
    - Within 30 days of the Settlement Agreement being signed by the Director of the Division of Water Quality, NUCWCD will remit payment in the amount of \$70,802.05. This amount is to reimburse monitoring costs that DWQ incurred from August 23 through September 5th.

- On or before January 1, 2018, NUCWCD will remit payment in the amount of \$21,820.50 to DWQ for labor costs associated with Tibble Fork investigations from August 23rd through November 4th.
- On or before January 1, 2019, January 1, 2020, and January 1, 2021, NUCWCD will remit payments in the amount of \$17,500 for penalties assessed to resolve the NOV.

Payments are to begin within thirty (30) days of the effective date of this **AGREEMENT** by online payment, or check made payable to the State of Utah delivered or mailed to:

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

- B. The **OPERATOR** further agrees to fund a restoration and monitoring project(s) for the American Fork River in order to return it to its pre-incident state. The plan(s) for these project(s) must be completed and approved by the Division of Water Quality and initiated within 30 days of the effective date of this **AGREEMENT**.

The **OPERATOR**'s participation in the restoration and monitoring project(s) must fully adhere to *UAC R317-1-8*. The **OPERATOR** agrees not to attempt to gain or generate any positive publicity, and further agrees not to deduct or otherwise attempt to obtain a tax benefit from the foregoing funding of these projects.

- C. The **OPERATOR** may be required to submit updates, based on the approved project(s). Updates must be submitted every 3 months. The updates must include how the project is progressing and any known setbacks that may impact the progress of the mitigation and recovery.
7. Nothing contained in this **AGREEMENT** shall preclude the **DIRECTOR** from taking additional actions against the **OPERATOR** for permit violations not resolved by this **AGREEMENT**.
8. If an agreement between the **OPERATOR** and the **DIRECTOR** cannot be reached in a dispute arising under any provision of this **AGREEMENT**, then the **OPERATOR** or the **DIRECTOR** may commence a proceeding with the **BOARD** under the *Administrative Procedures Act* to resolve the dispute. A final decision in any adjudicative proceeding shall be subject to judicial review under applicable state law.
9. Nothing in this **AGREEMENT** shall constitute a waiver by the **OPERATOR** to raise in defense any legal or factual contention for future allegations of noncompliance.
10. Nothing in this **AGREEMENT** shall constitute or be considered as a release from any claims,

NORTH UTAH COUNTY WATER CONSERVANCY DISTRICT  
Settlement Agreement, Docket No. I16-07

to include natural resource damage claims, cause of action, or demand in law or equity which the **STATE** may have against the **OPERATOR**, or any other person, firm, partnership or corporation for any liability arising out of or relating in any way to the release of pollutants to waters of the State.

AGREED to this \_\_\_\_ day of \_\_\_\_\_, 2017.

**NORTH UTAH COUNTY  
WATER CONSERVANCY DISTRICT**

**UTAH DIVISION OF  
WATER QUALITY**

By Michael M. Chambers  
Authorized Agent

By \_\_\_\_\_  
Director