



State of Utah

GARY R. HERBERT
Governor

SPENCER J. COX
Lieutenant Governor

Department of
Environmental Quality

Alan Matheson
Executive Director

FILE COPY

MAY 25 2017

CERTIFIED MAIL
(Return Receipt Requested)

North Utah County Water Conservancy District
C/O John H. Jacobs, Attorney
75 North Center
American Fork, Utah 84003

Dear Mr. Jacobs:

Subject: Settlement Agreement, Tibble Fork Dam Sediment Release, Docket #I16-07

Transmitted herewith is the duly executed (signed and dated by the Acting Director) Settlement Agreement, Docket No. I16-07. The Settlement Agreement was open for public comment from March 31, 2017 to May 1, 2017 and published in the Provo Daily Herald. Several comments were received during the comment period and the Division has responded to these.

The Settlement Agreement was approved by the Utah Water Quality Board during their board meeting on May 24, 2017. The Agreement has been finalized and payment of the full penalty amount according to the schedule described in the Agreement, along with compliance with the requirements of the approved Monitoring and Remediation plans referenced therein, will formally close out this enforcement action.

Please submit the first payment per Paragraph 6A of the Settlement Agreement in the amount of \$70,802.05 made payable to "State of Utah". Submittal is due within 30 days of the effective date of the Stipulated Compliance Order to the address below:

Utah Division of Water Quality
Attn: Emily Canton
P.O. Box 144870
Salt Lake City, UT 84114-4870

A separate invoice is included herein. Please include a copy of the invoice, or the invoice number with your remittance.

If you have any questions with regards to this matter, please contact Kevin Okleberry at 801-536-4054 or kokleberry@utah.gov.

Sincerely,



Matthew Garn, P.E., Manager
Surface Water Section

MG:KO:mmm

Enclosures: 1. Settlement Agreement, Docket #I16-07
2. Invoice

CC: Craig W. Anderson, Assistant Attorney General, via email
Ralph Clegg, Utah County Health Department, via email

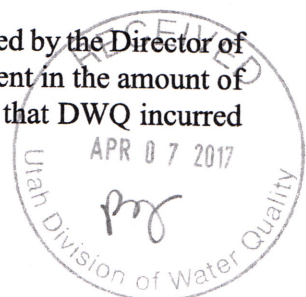
DWQ-2017-004667

UTAH DIVISION OF WATER QUALITY

IN THE MATTER OF NORTH UTAH COUNTY WATER CONSERVANCY DISTRICT	DOCKET NUMBER I16-07 SETTLEMENT AGREEMENT
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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.



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

- 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 25th day of May, 2017.

**NORTH UTAH COUNTY
WATER CONSERVANCY DISTRICT**

**UTAH DIVISION OF
WATER QUALITY**

By Michael M. Chambers
Authorized Agent

By Ken Sully
Acting Director



STATE OF UTAH

FILE COPY

INVOICE

SEND PAYMENT TO:

DEPT OF ENVIRONMENTAL QUALITY
WATER QUALITY
195 N 1950 West
P O Box 144870
Salt Lake City UT 84114-4870

Invoice Number:
177000000000411

Original Invoice Date:
05-25-17

Amount Due:
\$70,802.05

Due Date:
06-24-17

BILL TO: North Utah County Water Conservancy District
75 North Center
American Fork UT 84003

AMOUNT ENCLOSED

Please write INVOICE NO. on front of check
or money order

MAKE CHECKS PAYABLE TO:
UTAH DIVISION OF WATER QUALITY
AR DEPT:BPRO 480:48070

RETURN THIS PORTION WITH YOUR PAYMENT
RETAIN FOR YOUR RECORDS

Contact : Sharon Schofield (801) 536-4321

STATE OF UTAH



Invoice Number:
177000000000411

Original Invoice Date:
05-25-17

Due Date:
06-24-17

Amount Due:
\$70,802.05

Invoice Charges

Line Number	Description	Amount
1	Settlement agreement Docket #116-07 DWQ Monitoring Cost First invoice	\$70,802.05
Total Invoice Charges		\$70,802.05

Other Charges

Description	Amount
Other Fee	\$0.00
NSF Fee	\$0.00
Total Other Charges	\$0.00

Payments Applied \$0.00

Total Amount Due \$70,802.05

Instructions: