

**STATE OF UTAH
DIVISION OF WATER QUALITY
UTAH WATER QUALITY BOARD
SALT LAKE CITY, UTAH 84114-4870**

GROUND WATER DISCHARGE PERMIT

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

**Prolific Mining Corporation (PMC)
100 East 20 North
Hanksville, Utah 84734**

is granted a ground water discharge permit for the operation of the **Prolific Mine and Mill** in Garfield County, Utah.

The facility is located within Township 31 South, Range 10 East on portions of Sections 34 and 35, Salt Lake Meridian.

The permit is based on representations made by the permittee and other information contained in the administrative record. It is the responsibility of the permittee to read and understand all provisions of this permit.

The facility shall be constructed and operated in accordance with conditions set forth in the permit and the Utah Ground Water Quality Protection Regulations.

This permit shall become effective on _____, 2018

This permit and the authorization to operate shall expire at midnight on _____, 2023.

Erica Brown Gaddis, Ph.D.
Director
Utah Division of Water Quality

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Draft Public Notice Version March 2018. The findings, determinations and assertions contained in the document are not final and subject to change following the public comment period

Permit No. UGW170005

Appendix A –Mining Operation and Monitoring Plan

Appendix B – BAT Monitoring Plan

Appendix C – Water Quality Monitoring and QA/QC Plan

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I. SPECIFIC PERMIT CONDITIONS

- A. Ground Water Classification. The ground water for the uppermost aquifer in the vicinity of the Prolific mine and mill has not been classified. There are currently not any ground water monitoring wells present at the site. In the absence of specific ground water quality monitoring data, DWQ assumes the uppermost aquifer is Class IA pristine ground water as defined in UAC R317-6-3.
- B. Background Ground Water Quality. Background ground water quality statistics will be submitted after an accelerated monitoring program described in Part I.J.6 of this permit has been completed.
- C. Ground Water Protection Levels. There are currently not any ground water monitoring wells installed at the site. As a result, ground water protection levels will be monitored from surface flow samples collected at the following locations:

Table 1 – Water Quality Monitoring Locations

Description	Sampling Location
El-Padre Mine Adit	38°4'0.97"N 110°47'24.60"W
Har-El Mine Adit	38°3'59.65"N 110°47'12.80"W
Herki Lake Mine Adit	38°3'56.12"N 110°47'37.53"W
Crescent Creek (upgradient of mine)	38°4'01.00"N 110°47'15.45"W
Crescent Creek (downgradient of mine)	38°4'00.08"N 110°47'1.67"W

The source of the surface flow emanating from the historic mine adits is likely shallow ground water, therefore samples from these locations will be used to establish protection levels at the site until such time as ground water monitoring wells are installed and sampled. Protection levels for these surface sampling sites will be established as described in UAC R317-6-4.2 for Class IA ground water.

- D. Best Available Technology Performance Standard. The enforceable performance standard for this permit to achieve protection of ground water quality will be to minimize release of solids and/or fluids from all operations associated with mining activities. Best Available Technology (BAT) construction and operation standards of this permit shall apply to the following facilities/operations:

- proof of concept mill;
- process water ponds;
- mining operations;
- product storage piles; and
- waste material storage piles.

These facilities constitute those where there is potential for release of fluids to ground water. All facilities shall be constructed in accordance with Plans and Specifications submitted for Director review and approval. BAT construction and

operating standards for the specifically permitted facilities shall be described by the permittee and submitted for Director approval prior to commencement of mining activities as described in Part I.J.4 of this permit.

E. Design and Construction

1. Spill Containment - The Permittee shall design, maintain and construct all pipelines, storage tanks, process water ponds, and milling facilities with a spill containment system that shall prevent any spills or leakage from contact with the ground surface or ground water. Any spill that does come into contact with the ground surface or ground water that causes pollution or has the potential to cause pollution to waters of the state shall be reported in accordance with Part II.I.
2. Advance Notification of Construction and Mining Activities - The Permittee shall submit a construction and mining activities plan on an annual basis that outlines the activities for the year. This will enable division staff to anticipate the need for construction permits as required and schedule inspections during key activities. The plan shall be submitted in accordance with Part I.1.b.
3. Monitoring Well Construction - Monitoring well construction shall conform to A Guide to the Selection of Materials for Monitoring Well Construction (1983) and RCRA Groundwater Monitoring Technical Enforcement Guidance Manual (1986).

Steel casing or other suitable material when approved by the Director shall be required on all new wells constructed for the purposes of this permit.
4. Construction Permits - The Permittee shall submit plans and specifications for Director review and approval to obtain a construction permit prior to initiating new construction of any facility related to containment of process water, contact water, or any other potential source of contaminant discharge to ground water.

F. Monitoring

1. General Provisions
 - a) Water Quality Monitoring and Quality Assurance/Quality Control (QA/QC) Plan - All water quality monitoring to be conducted under this permit shall be conducted in accordance with the general requirements, hereunder, and the specific requirements of the Water Quality Monitoring and QA/QC Plan to be prepared as described in Part I.J.5 of this permit.

- b) Compliance Monitoring Period - Monitoring shall commence upon issuance of this permit and shall continue through the life of this permit. For compliance monitoring wells that are installed during the term of this permit, monitoring shall commence upon completion of the well installation and development.
 - c) Laboratory Approval - All water quality analyses shall be performed by a laboratory certified by the State of Utah to perform such analysis.
 - d) Constituents Sampled - The following analysis shall be performed on all water quality samples collected:
 - i) Field Parameters - pH, temperature, and specific conductance.
 - ii) Laboratory Parameters:
 - Alkalinity, chloride, sulfate, nitrate, bromide, cyanide, sodium, potassium, magnesium, and calcium.
 - TDS
 - Metals (dissolved): antimony, arsenic, barium, beryllium, cadmium, chromium, cobalt, copper, lead, mercury, molybdenum, nickel, selenium, silver, thallium, vanadium, and zinc.
 - e) Analytical Procedures - Water sample analysis will be conducted according to test procedures specified under UCA R317-6-6.3L.
2. Monitoring Frequency - All existing water quality compliance monitoring points will be sampled quarterly throughout the term of this permit, unless more frequent sampling is required under other terms of this permit.
 3. BAT Monitoring Requirements - The Permittee shall conduct monitoring in accordance with the BAT Monitoring Plan submitted as required in Part I.J.4.

G. Demonstration of Compliance

1. Probable Out of Compliance for Water Quality Protection Levels - If the concentration of a pollutant from any compliance monitoring sample listed in Table 1 is greater than the protection level PMC shall:
 - a) Notify the Director in writing within 30 days of receipt of the data;
 - b) Initiate monthly sampling for the compliance monitoring sample location that has exceeded the protection level, unless the Director

determines that other periodic sampling is appropriate, for a period of two months or until the compliance status of the facility can be determined.

2. Out of Compliance Status for Water Quality Protection Levels. Out of compliance status exists when:

- a) Two or more consecutive samples from a compliance monitoring location are above the protection level for a pollutant; or
- b) The concentration of any pollutant in two or more consecutive samples is statistically significantly higher than the applicable protection level. Statistical significance shall be determined using methods described in Statistical Methods for Evaluating Ground Water Monitoring Data from Hazardous Waste Facilities, Vol. 53, No. 196 (Federal Register, Oct. 11, 1988)
- c) Upon determining that an out of compliance situation exists, PMC shall:
 - i) Notify the Director of the out of compliance status within 24 hours of detection followed by a written notice within 5 days of the detection.
 - ii) Initiate monthly sampling unless the Director determines that other periodic sampling is appropriate until the facility is brought into compliance.
 - iii) Submit a Source Assessment and Compliance Schedule to the Director within 30 days of detection of the out of compliance status that outlines the following:
 - Steps of action that will assess the source, extent, and potential dispersion of the contamination.
 - Evaluation of potential remedial actions to restore and maintain ground water quality and ensure the protection levels or protection levels will not be exceeded at that compliance monitoring point.
 - Measures to ensure BAT will be re-established.
 - iv) Implement the Source Assessment and Compliance Schedule as directed by the Director.

H. Non-Compliance with Best Available Technology

1. PMC is required to maintain BAT in accordance with the approved design and practice for this permit. Failure to maintain BAT or maintain the approved design and practice shall be a violation of this permit. In the event a compliance action is initiated against the permittee for violation of permit conditions relating to BAT, PMC may affirmatively defend against that action by demonstrating the following:
 - a. PMC submitted notification in accordance with R317-6-6.13;
 - b. The failure was not intentional or caused by PMC's negligence, either in action or in failure to act;
 - c. PMC has taken adequate measures to meet permit conditions in a timely manner or has submitted for the Director's approval, an adequate plan and schedule for meeting permit conditions; and
 - d. The provisions of UCA 19-5-107 have not been violated.

I. Reporting Requirements

1. Reporting

- a. Sampling and Analysis Report - Water quality sampling results with any supporting data shall be submitted quarterly to the Director and will include:
 - (i) Field Data Sheets - or copies thereof, including the field measurements, required in Part I.F.1.d., above, and other pertinent field data, such as: sample identification, date and time, names of sampling crew, sample collection method, volume of water purged before sampling.
 - (ii) Results of Sample Analysis - including date sampled, date received, and the results of analysis for each parameter, including: value or concentration, units of measurement, reporting limit (minimum detection limit for the examination), analytical method, and the date of the analysis.
- b. Annual Construction and Mining Activities Plan – submitted on the 4th quarter reporting schedule shown below, an Annual Construction and Mining Activities Plan shall be submitted for Director review and approval to summarize activities and schedules anticipated during the following 12 month period (report due February 15 shall address activities projected from February 15 of the current year through February 15 of the following year).

As described in Part I.E.2., the purpose of this plan is to enable division staff to anticipate the need for construction permits as required and schedule inspections during key activities.

Quarterly reporting to the Director shall be according to the following schedule:

<u>Quarter</u>	<u>Report Due On</u>
1 st (January-March)	May 15
2 nd (April-June)	August 15
3 rd (July-September)	November 15
4 th (October-December)	February 15

Failure to submit reports within the time frame due shall be deemed as noncompliance and may result in enforcement action.

2. Delivery Requirements - the permittee shall electronically submit required deliverables via the Water Quality Electronic Document Submission Portal found at:

<https://deq.utah.gov/ProgramsServices/services/submissions/index.htm>.

If requested by the Director, hard copies shall also be submitted.

J. Compliance Schedule.

1. 90-days prior to operating the onsite proof of concept mill, but no later than December 31, 2018, PMC shall submit a Closure Plan for the two existing unpermitted process water ponds for Director review and approval.
2. 90-days prior to operating the onsite proof of concept mill, PMC shall submit an application for a construction permit for a process water pond in accordance with R317-1-2. Said application shall include design specifications and drawings for Director review and approval.
3. 180-days prior to conducting mining operations, PMC shall submit a Mining Operation and Monitoring Plan for Director review and approval. Said plan shall address all aspects of the operation that could impact ground water including, but not limited to, installation of a ground water monitoring network, contact storm water run-off controls, mine dewatering procedures, waste rock management, product stream handling and storage procedures, etc. Approval of this plan will be considered a major modification of the permit and require a 30-day public comment

period. The approved document will become enforceable as Appendix A to this permit.

4. **BAT Monitoring Plan.** The Permittee shall submit a BAT monitoring plan for Director review and approval prior to commencement of mining activities or construction of any facilities described in this permit. The plan will include all procedures and methods sufficient to establish BAT performance standards for each operation listed in Part I.D. The approved document will become enforceable as Appendix B to this permit.
5. **Water Quality Monitoring and QA/QC Plan.** The Permittee shall submit a Water Quality Monitoring and QA/QC Plan for Director review and approval within 180-days of the effective date of this permit. The plan may be a revised version of the Compliance Monitoring Plan that was included as part of the ground water discharge permit application. The plan shall address, but not be limited to:
 - objectives of water quality monitoring,
 - standardized procedures for collection, analysis, and reporting of data,
 - surface water sampling,
 - monitoring well installation and sampling procedures,
 - analytical laboratory QA/QC criteria, and
 - data evaluation/validation.

The approved document will become enforceable as Appendix C to this permit.

6. **Accelerated Background Monitoring Program and Report**

The Permittee shall conduct an accelerated background monitoring program by collecting at least eight samples from each monitoring location over a one-year period to determine background water quality and variability of the laboratory water quality parameters listed in Part I.F.1.d.

In addition, the following statistical calculations shall be provided in spreadsheet form for each parameter from each monitoring location using the accelerated background monitoring data:

- Mean concentration;
- Standard deviation;
- Mean concentration plus two standard deviations; and
- TDS mean concentration times 1.25.

After a technical review and approval of the report, the Director will reopen the permit to set sample-specific protection levels for each

parameter and compliance monitoring location according to UAC R317-6-4.

7. Closure Plan – at least one year prior to ceasing mining operations, the Permittee shall submit for approval by the Director a Final Closure Plan that addresses all aspects of mine closure that are related to or have an impact on water quality including, but not limited to, removal and reclamation of process water ponds, management of ground water in mine workings, ground water monitoring after site closure, capping of acid generating waste rock, etc.

II. MONITORING, RECORDING AND REPORTING REQUIREMENTS

- A. Representative Sampling. Samples taken in compliance with the monitoring requirements established under Part I shall be representative of the monitored activity.
- B. Analytical Procedures. Water sample analysis must be conducted according to test procedures specified under UAC R317-6-6.3L, 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. Reporting of Monitoring Results. Monitoring results obtained for each monitoring period specified in the permit, shall be submitted to the Director, Utah Division of Water Quality at the following address no later than 45 days after the end of the monitoring period (unless specified otherwise in this permit):

State of Utah
Division of Water Quality
Department of Environmental Quality
195 North 1950 West
Salt Lake City, Utah 84114-4870
Attention: Ground Water Protection Section

- E. 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.
- F. Additional Monitoring by the Permittee. If the permittee monitors any pollutant more frequently than required by this permit, using approved test procedures as specified in this permit, the results of this monitoring shall be included in the

calculation and reporting of the data submitted. Such increased frequency shall also be indicated.

G. 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.

H. Retention of Records. The permittee shall retain records of all monitoring information, including all calibration and maintenance records and 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 three years from the date of the sample, measurement, report or application. This period may be extended by request of the Director at any time.

I. Twenty-four Hour Notice of Noncompliance and Release Reporting.

1. Subject to the provisions of UCA 19-5-114, the permittee shall verbally report any noncompliance or release which may endanger public health or the environment as soon as possible, but no later than twenty-four (24) hours from the time the permittee first became aware of the circumstances. The report shall be made to the Utah Department of Environmental Quality 24 hour number, (801) 536-4123, or to the Division of Water Quality, Ground Water Protection Section at (801) 536-4300, during normal business hours (8:00 am - 5:00 pm Mountain Time).
2. A written submission shall also be provided to the Director 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; and,
 - d. Steps taken or planned to reduce, eliminate, and prevent reoccurrence of the noncompliance.
3. Reports shall be submitted to the addresses in Part II D, Reporting of Monitoring Results.

- J. 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 II.D are submitted.
- K. 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; and,
 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.

III. COMPLIANCE RESPONSIBILITIES

- A. Duty to Comply. The permittee must 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 re-issuance, 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 is subject to a fine not exceeding \$25,000 per day of violation. Any person convicted under Section 19-5-115(2) of the Act a second time shall be punished by a fine not exceeding \$50,000 per day. 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.

- 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.

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IV. 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 when the alteration or addition could significantly change the nature of the facility or increase the quantity of pollutants discharged.
- B. Anticipated Noncompliance. The permittee shall give advance notice 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 re-issuance, 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 must apply for and obtain a permit renewal or extension. The application should 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 as follows:
 - a. For a corporation: by a responsible corporate officer;
 - b. For a partnership or sole proprietorship: by a general partner or the proprietor, respectively.
 - c. For a municipality, State, Federal, or other public agency: by either a principal executive officer or ranking elected official.

2. All reports required by the permit and other information requested by 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 specified either an individual or a position having responsibility for the overall operation of the regulated facility or activity, such as the position of plant manager, operator of a well or a well field, superintendent, position of equivalent responsibility, or an individual or position having overall responsibility for environmental matters for the company. (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 Part IV.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 Part IV.G.2 must 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 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 by the permittee, all reports prepared in accordance with the terms of this permit shall be available for public inspection at the offices of the Director. As required by the Act, permit applications, permits, effluent data, and ground water quality data shall not be considered confidential.
- J. 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.
- K. Severability. The provisions of this permit are severable, and if any provision 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, shall not be affected thereby.
- L. Transfers. This permit may be automatically transferred to a new permittee if:
1. The current permittee notifies the Director at least 30 days in advance of the proposed transfer date;
 2. The notice includes a written agreement between the existing and new permittee 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.
- M. State Laws. Nothing in this permit shall be construed to preclude the institution of any legal action or relieve the permittee from any responsibilities, liabilities, penalties established pursuant to any applicable state law or regulation under authority preserved by Section 19-5-117 of the Act.
- N. Reopener Provision. This permit may be reopened and modified (following proper administrative procedures) to include the appropriate limitations and compliance schedule, if necessary, if one or more of the following events occurs:
1. If new ground water standards are adopted by the Board, the permit may be reopened and modified to extend the terms of the permit or to include pollutants covered by new standards. The permittee may apply for a variance under the conditions outlined in R317-6-6.4(D)
 2. If alternate compliance mechanisms are required

3. If pollutant concentrations in process waters at the facility are significantly higher than represented in the original permit application.

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