



State of Utah

GARY R. HERBERT  
*Governor*

SPENCER J. COX  
*Lieutenant Governor*

Department of  
Environmental Quality

L. Scott Baird  
*Executive Director*

DIVISION OF WATER QUALITY  
Erica Brown Gaddis, PhD  
*Director*

FILE COPY  
DWQ-2019-018543cjh

**CERTIFIED MAIL & Regular Mail  
(Return Receipt Requested)**

December 6, 2019

Bob Ropelato, Owner  
Ropie's Dairy  
330 North 900 West  
Hyrum, Utah 84319

Subject: **Public Notice of Proposed Settlement Agreement (SA) for Stipulated Compliance Order (SCO) Docket No I19-03, Ropie's Dairy**

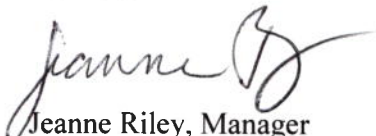
Dear Mr. Ropelato:

Enclosed is a copy of the Public Notice of the proposed Settlement Agreement between the Utah Water Quality Board and Ropie's Dairy. You have signed the draft SCO which now must be public noticed as required by state administrative code. The SA will be public noticed on the Utah Department of Environmental Quality website and two statewide papers.

If significant comments are received by DWQ during public comment, the SA may need to be amended to reflect the comments. If significant comments are not received, the SA will be signed by the Director and become in effect upon signature. Once the SCO is final an invoice for penalty payment will be mailed to you.

If you have any questions with regards to this matter, please contact Don Hall at (801) 801-536-4492 or [dghall@utah.gov](mailto:dghall@utah.gov). This information will be made available on-line at [deq.utah.gov/public-notices-archive/water-quality-public-notices](http://deq.utah.gov/public-notices-archive/water-quality-public-notices).

Sincerely,

  
Jeanne Riley, Manager  
Storm Water Section

JR:dh:ch

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Bob Ropelato, Owner  
Ropie's Dairy

Enclosures: Public Notice Deseret News, Public Notice Salt Lake Tribune, SCO

cc: Hannah Freeze, Utah Department of Agriculture and Food  
Mike Kohler, Utah Dairy Association  
Grant Koford, Bear River Health Department  
Jay Olsen, Utah Department of Agriculture and Food

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Page 2  
UPDES Permit UT0024601  
**Eureka City Corporation**

- Enclosures (5):
1. Newspaper Request for Publication (DWQ-2019-016813)
  2. Public Notice (DWQ-2019-016815)
  3. Draft Fact Sheet Statement of Basis (DWQ-2019-011634)
  4. Waste Load Analysis (DWQ-2019-011638)
  5. Draft Permit (DWQ-2019-011636)

Cc: Via Email w/Enclosures  
Amy Clark, US EPA Region VIII  
Nathan Selin, Central Utah Public Health Department

DWQ-2019-016813  
FILE: UPDES Section 2



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December 12 2019

UTAH DEPARTMENT OF ENVIRONMENTAL QUALITY  
DIVISION OF WATER QUALITY

PUBLIC NOTICE OF SETTLEMENT AGREEMENT FOR STIPULATED COMPLIANCE  
ORDER, DOCKET NO. I19-03, ISSUED TO ROPIE'S DAIRY

**PURPOSE OF PUBLIC NOTICE**

This notice declares that the State of Utah has reached a proposed settlement agreement with Ropie's Dairy, pertaining to a Stipulated Compliance Order (SCO) issued to the dairy. The purpose of the proposed settlement agreement is to resolve enforcement proceedings for alleged violations Utah Code Annotated 19-5 (Water Quality Act) and Utah Administrative Code. This Public Notice is issued pursuant to Utah Administrative Code R317-8-1.9 and provides the opportunity for public comment on the proposed settlement agreement

**PUBLIC COMMENTS**

Public comments are invited any time prior to the deadline of the close of business on **January 17, 2020**. The settlement agreement is available for public review at [deq.utah.gov/public-notices-archive/water-quality-public-notices](http://deq.utah.gov/public-notices-archive/water-quality-public-notices) under "Water Quality Open Public Notices", "Water Quality Open Public Notices" and "Enforcement Actions". A copy of the agreement may be obtained by calling Don Hall at (801)-536-4492, or email at [dghall@utah.gov](mailto:dghall@utah.gov). Written comments can be submitted to: Don Hall, Utah Division of Water Quality, P.O. Box 144870, Salt Lake City, Utah 84114-4870, or email at [dghall@utah.gov](mailto:dghall@utah.gov).

DWQ-2019-019109

UTAH DIVISION OF WATER QUALITY

<p><b>IN THE MATTER OF</b>  <b>Ropie's Dairy, Inc.</b>  <b>C/O Bob Ropelato</b></p> <p><b>330 North 900 West</b>  <b>Hyrum, Utah 84319</b></p> <p><b>3945 West 1800 South</b>  <b>Ogden, Utah 84401</b></p>	<p><b>DOCKET NUMBER, I19-03</b></p> <p><b>STIPULATED COMPLIANCE ORDER</b></p>
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PURPOSE

1. This **Stipulated Compliance Order (AGREEMENT)** is entered into voluntarily by and among the Director of the Utah Division of Water Quality (**DIRECTOR**) and Ropie's Dairy, Inc. (**DAIRY**) in Hyrum, Utah. The **DIRECTOR** and the **DAIRY** are jointly referred to hereafter as the **PARTIES**. The purpose of this **AGREEMENT** is to resolve enforcement action related to the illicit discharge of manure water to a canal that connects to Spring Creek and the Logan River.

AUTHORITY

1. The **DIRECTOR** is authorized to issue, continue in effect, renew, revoke, modify or deny discharge permits and to issue orders in accordance with Utah Code Section 19-5-106, and to specify a schedule of compliance in a permit leading to compliance with the Utah Water Quality Act (**ACT**) and the Water Quality Rules in the Utah Administrative Code (**RULES**).
2. The Utah Division of Water Quality (**DIVISION**) was created to administer the **ACT** under the immediate direction and control of the **DIRECTOR** pursuant to Utah Code Section 19-1-105.
3. The State of Utah 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**), known in Utah as Utah Pollution Discharge Elimination System (**UPDES**).
4. Utah Code Section 19-5-107(1)(a) provides, "except as provided in this chapter or rules made under it, it is unlawful for any person to discharge a pollutant into waters of the state or 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."
5. Under Utah Code Section 19-5-114, "any person who spills discharges any oil or other substance which may cause the pollution of the waters of the State shall immediately notify the Executive Secretary of the spill or discharge, and containment procedures undertaken, and a proposed procedure for cleanup and disposal, in accordance with rules of the [Water Quality] board."

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## UTAH DIVISION OF WATER QUALITY

6. According to Utah Administrative Code R317-2-7.2 "it shall be unlawful, and a violation of these rules, for any person to discharge or place any waste or other substance in such a way as 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 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; or determined by biological assessments in Subsection R317-2-7.3."

### FACTS AND FINDINGS

1. Bob Ropelato is the owner and operator of the **DAIRY** located at 1900 West 5600 South, Hyrum, Utah. The **DAIRY** is a large concentrated animal feeding operation (**CAFO**) confining an estimated 850 cows at the time of the discharge.
2. There is a crop field at the **DAIRY** that is less than fifty feet from a canal that flows to Spring Creek and the Logan River. The canal, Spring Creek, and the Logan River are waters of the State per Utah Administrative Code R317-8-1.5(59) and R317-8-10.2.
3. Mr. Ropelato reported that the **DAIRY** applied 60,000 gallons of manure water to the crop field (next to the canal) during the winter of 2018-2019.
4. Sometime before April 2019, an employee or an agent at the **DAIRY**, cut a hole in the field berm which allowed a discharge of the manure water and accumulated precipitation to the canal during April 2019. As a result of the hole in the berm, manure water flowed to a ditch that drains to the canal through a culvert under an access road.
5. The **DIVISION** observed discharges to the canal on April 17<sup>th</sup>, 23<sup>rd</sup>, and 25<sup>th</sup> of 2019. The **DIVISION** estimates that several hundred thousand gallons of manure water flowed to the canal. In addition, it is likely that the **DAIRY** discharged prior to April 17<sup>th</sup> since manure water was applied during the winter without any means of preventing discharge to the canal and because the berm was overgrown indicating that it had been open for some time.
6. The **DIVISION** informed Mr. Ropelato of the discharge on April 17, 2019 and instructed him to address the discharge to the canal and to inform the **DIVISION** when he had done so.
7. Mr. Ropelato originally reported to the **DIVISION**, that the berm was repaired on April 24<sup>th</sup>, but later stated during a July 17, 2019 meeting that the berm was repaired on April 17<sup>th</sup>. If the berm was repaired on April 17<sup>th</sup>, the **DIVISION** was not informed of the April 17<sup>th</sup> repair until the meeting on July 17<sup>th</sup>.
8. The **DIVISION** has determined a penalty for this incident according to the guidelines found in Utah Administrative Code R317-1-8, Penalty Criteria for Civil Settlement

## UTAH DIVISION OF WATER QUALITY

Negotiations. The criteria considers such factors as the nature, severity and extent of the violations, history of noncompliance, degree of willingness, negligence, good faith efforts to comply, and economic benefit of the delayed compliance.

### VIOLATIONS

Based on the foregoing Facts and Findings, the **DAIRY** has violated the following:

1. Utah Code Section 19-5-107(1)(a) and R317-2-7.2, for the discharge from the **DAIRY** causing pollution which could be harmful to wildlife, fish or aquatic life, or impairs domestic, agricultural, industrial, recreational, or other beneficial uses of water and described in the Facts and Findings, paragraph C.4.
2. Utah Code Section 19-5-114, for the **DAIRY** failing to report to the **DIRECTOR** the **DAIRY'S** discharge to waters of the State.

### AGREEMENT & ORDER

Based on the foregoing **FACTS AND FINDINGS** and **VIOLATIONS**, the **DIRECTOR** hereby orders, and the **DAIRY** agrees to comply with the requirements and conditions of the **AGREEMENT** below. The **DAIRY** is ordered and agrees to:


As of the date of this **ORDER**, initiate all action required to come into compliance with all applicable provisions of the Utah Water Quality Act and the Water Quality Rules, including by not limited to:

1. Cease all feed and manure discharge to waters of the State from the **DAIRY'S** production area, waste storage areas, and fields.
2. Prevent future discharges to waters of the State from the **DAIRY**.
3. Report any future discharges to waters of the State to the **DIVISION** within 24-hours of any discharge.
4. Prepare or revise a nutrient management plan (**NMP**) for the **DAIRY** according to all applicable and current Natural Resources Conservation Service (**NRCS**) practices and standards.
5. The new or revised **NMP** must be approved by a **NRCS** certified planner by **November 15, 2019**. The **NMP** must be submitted to the **DIRECTOR** for review by **October 15, 2019** and revised thereafter as needed and directed by the **DIRECTOR**. The **DAIRY** is responsible to ensure the **NMP** is completed by **October 15, 2019**, even if a vendor must be hired for **NMP** development and approval.

UTAH DIVISION OF WATER QUALITY

6. The **NMP** must be approved by the **DIRECTOR** prior to full implementation of the **NMP**. The **DAIRY** should begin implementation of components of the **NMP** prior to **DWQ** approval upon consultation with the **DIRECTOR**.
7. The **NMP** must be fully implemented at the **DAIRY** by **March 15, 2020**.
8. The **DAIRY** may request a deadline extension to any non-penalty related deadline within this **AGREEMENT** for conditions beyond the reasonable control of the **DAIRY** and at a minimum of 30 days prior to the respective deadline. The **DIRECTOR** must approve the deadline for the extension to be granted.
9. The **DAIRY** agrees to pay a penalty in the amount of **\$751**. The penalty must be paid by **October 15, 2019**.
10. The **DAIRY** agrees to reimburse the **DIVISION** for costs associated with the enforcement action in the amount of **\$450** by **October 15, 2019**. Reimbursement costs included in this agreement are those incurred from the **DAIRY** not informing and demonstrating to the **DIVISION** that the berm was repaired on **April 17, 2019** until **July 17, 2019**. Specifically, the **DIVISION** is reimbursement for 4.5 hours of labor associated with returning to re-inspect the site.
10. The **DAIRY** agrees to pay **\$200** per day for every day the penalty and reimbursement cost payment is late and is not paid in full by **October 15, 2019**.
12. By executing this **AGREEMENT**, the **DAIRY** makes no admissions concerning the findings and denies liability for the findings made within. The **PARTIES** understand and agree that this **AGREEMENT** is being entered into in an effort to resolve any dispute between the parties and avoid further dispute, discussion, or action concerning the matters related thereto.
13. Neither execution of this **AGREEMENT**, nor the **DAIRY's** compliance with the conditions and requirements of this **AGREEMENT**, shall relieve the **DAIRY** of any future enforcement actions and penalties for future non-compliance with the **ACT** and the **RULES**.
14. The undersigned representatives certify that they are fully authorized to enter into the terms and conditions of this **AGREEMENT** and to bind the party they represent to this **AGREEMENT**.
15. This **AGREEMENT** is effective upon signature by the **DAIRY** and the **DIRECTOR**.

IT IS SO AGREED.

  
\_\_\_\_\_  
Bob Ropelato, Owner/Operator

Date: 11-15-19







State of Utah

GARY R. HERBERT  
*Governor*

SPENCER J. COX  
*Lieutenant Governor*

Department of  
Environmental Quality

L. Scott Baird  
*Executive Director*

DIVISION OF WATER QUALITY  
Erica Brown Gaddis, PhD  
*Director*

December 6, 2019

Newspaper Agency  
143 South Main  
Salt Lake City, UT 84110

Email: [naclegal@utahmediagroup.com](mailto:naclegal@utahmediagroup.com)  
Account#: 9001365712

ATTN: Legal Advertising Department

This letter will confirm authorization to publish the attached NOTICE in **The Deseret News and Salt Lake Tribune** in the first available edition. Please mail the invoice and affidavit of publication to:

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

If there are any questions, please contact Clanci Hawks at (801)-536-4316. Thank you for your assistance.

Sincerely,

Jeanne Riley, Manager  
UPDES Storm Water Section

JR/ch

DWQ-2019-018547