



STATE OF UTAH DEPARTMENT OF ENVIRONMENTAL QUALITY
DIVISION OF WATER QUALITY

EXPEDITED SETTLEMENT OFFER

This Expedited Settlement Offer (ESO), is entered into by and between the Division of Water Quality (DWQ) and **Dirt Pro Excavating LLC** (Operator) pursuant to the DWQ Director's authority under the Utah Water Quality Act, Utah Code Sections 19-5-111, 19-5-115, Utah Administrative Code (UAC) R317-1-8 and R317-8-3.9. The DWQ and Operator are sometimes jointly referred to hereinafter as "the Parties." "Director" refers to the Director of DWQ.

1. Operator is a "person" as that term is defined in Utah Code Section 19-1-103(4).
2. Operator is conducting "construction activity" at **Zion View Suites** (the Project).
3. The Director issued the General Permit for Storm Water Discharges from Construction Activities UTRC00000 (Permit) authorizing owners/operators of construction activities to discharge in accordance with specific terms, conditions and best management practices as provided for in the Permit and UAC R317-8-11. Operator failed to submit a Notice of Intent to attain coverage for the Project under UTRC00000 and was not assigned an UPDES permit, the Operator is responsible for compliance with UTRC00000. (UTRC00000 and the Operator's specific coverage are referred to collectively herein after as "the Permit").
4. An ESO may be used in enforcement cases in lieu of the penalty process in UAC R317-1-8.3 when violations are readily identifiable, readily correctable, and do not cause significant harm to human health or the environment. UAC R317-1-8.6.
5. The attached "Expedited Settlement Offer Deficiencies Form" (ESODF), incorporated herein by reference, includes findings which specify the conditions in violation of the Permit observed at the Project during an on-site inspection conducted on December 08, 2021. The ESODF is in lieu of an initial order, notice of violation or notice of agency action to facilitate the purposes described hereinafter.
6. The Parties voluntarily enter into this ESO in order to: identify the actions necessary to correct the deficiencies observed at the Project; determine the amount of the civil penalty appropriate for the violation(s) based on the deficiencies alleged; and to conclude this matter without the necessity of further administrative or judicial proceedings.
7. Operator understands and agrees that a penalty in the amount of \$3,340.00 is appropriate based on the circumstances specified herein. This proposed settlement and penalty are subject to a thirty (30) day notice and comment period as provided for in UAC R317-8-1.9. The Parties each reserve the right to withdraw from this ESO if comments received during the notice period result in a modification to the terms and conditions.
8. By accepting this ESO, Operator neither admits nor denies the findings, violations or deficiencies specified herein.
9. Operator agrees to the terms, conditions and requirements of this ESO. By signing this ESO, Operator understands, acknowledges and agrees that it waives: (1) the opportunity for an administrative



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hearing pursuant to Utah Code Section 19-1-301; (2) the right to contest the finding(s) in the ESODF and the penalty amount specified herein; and (3) the opportunity for judicial review.

- 10. Operator certifies that all deficiencies identified herein have been corrected and that the Project is currently in full compliance with the terms and provisions of the Permit. Additionally, Operator has attached to this ESO: (1) a written description detailing how the deficiencies were corrected; and (2) representative photographs documenting the current conditions and the associated Best Management Practices implemented at the Project.
- 11. The Parties mutually agree that this ESO is entered in good faith and is an appropriate means to resolve the matters specified herein.
- 12. This ESO will be final after the thirty (30) day notice and comment period on the date the Director signs the ESO, at which time the civil penalty takes effect.
- 13. Operator agrees that within fifteen (15) calendar days of receiving the signed and final ESO and invoice information from the Division, Operator shall submit payment in accordance with the (attached instructions) and Divisions invoice to the Division of Water Quality in the amount specified in paragraph 7 above.
- 14. The violations described herein will constitute part of Operator's compliance history where such history is relevant, including any subsequent violations. Operator understands and agrees that this ESO is not and cannot be raised as a defense to any other action to enforce any federal, state or local law.
- 15. This ESO, when final, is binding upon Operator and any corporate subsidiaries or parents, their officers, directors, employees, successors in interest, and assigns. The undersigned warrants that it is authorized to legally bind their respective principals to this ESO.

ACCEPTED BY OPERATOR:

Name (print) Derek Hall

Title (print) Owner - Dist Pro Ex.

Signature *Derek Hall*

Date 6/17/22

DIVISION OF WATER QUALITY

John K. Mackey, P. E., Director

Date _____

Written description detailing how deficiencies were corrected. Well let me tell you.

1. I'm only the excavator, I was simply stupid enough to file a low erosivity waiver in my name for the work I was to perform. I finished and left and the next thing I know is you guys (evil government) blame me for everyone else on the job. It's not my fault no one else pulled a permit but now you feel it necessary to through me under the bus. Thank you for that.
2. Trash was picked up
3. Steet was swept
4. Perimeter controls were removed and permanent fencing put in place
5. Contracted with Silver Leaf to put a sign on the project.
6. Paved
7. Landsaped

