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**UTAH DIVISION OF WATER QUALITY**

<b>IN THE MATTER OF</b> <b>Spanish Fork City</b> <b>40 South Main Street</b> <b>Spanish Fork, UT 84660</b>	<b>PERMIT                  VARIANCE                  FOR</b> <b>TECHNOLOGY-BASED PHOSPHORUS</b> <b>EFFLUENT LIMITS</b>
<b>UPDES PERMIT NO. UT0020109</b>	

**BACKGROUND**

1. Spanish Fork City’s (“Spanish Fork”) wastewater treatment plant in Spanish Fork, Utah (the “Facility”) provides wastewater services within Utah County.
2. Spanish Fork’s operations at the Facility are undertaken subject to UPDES Discharge Permit No. UT0020109 (“Permit”).
3. The Facility is required to achieve technology-based phosphorus effluent limits (“TBPEL”) on or before January 1, 2020, unless a variance is granted. *See* UAC R317-1-3.3.
4. Spanish Fork submitted a variance request, received December 29, 2017 by the Utah Division of Water Quality (“DWQ”), seeking an extension of the TBPEL implementation date (the “Variance Request.”). The Variance Request was based on the fact that Spanish Fork was in the process of evaluating numerous alternatives for a facility to meet TBPEL requirements, however such improvements cannot be completed prior to January 1, 2020, despite Spanish Fork’s diligence.
5. Utah law provides that DWQ may grant a variance as to the implementation date for compliance with the TBPEL in the event that the operator demonstrates due diligence toward construction of a treatment facility designed to meet TBPEL, provided that such compliance date shall not be later than January 1, 2025. *See* UAC R317-1-3.3.C.1.e.
6. The Director of DWQ has determined that Spanish Fork has met its burden to show diligence within the meaning of the UAC R317-1-3.3 and that a variance is appropriate, subject to the limitations and conditions provided herein.

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7. On November 23, 2018, Spanish Fork was issued a variance from the TBPEL for evaluation of construction of a regional treatment plant. The November 2018 variance approval expires on March 1, 2021.

8. In addition, Spanish Fork has submitted a requests for variances for innovative alternatives for commensurate reduction under R317-1-3.3.C.1.d. for reuse and for trading approaches. Due to timing issues these requests will be considered at a later date. This approval does not represent approval nor a denial of these requests.

### **AUTHORITY**

9. The Director of DWQ has authority to grant a variance as to the implementation deadline for TBPEL pursuant to UAC R317-1-3.3 and the corresponding provisions of the Utah Water Quality Act.

10. The State of Utah administers the Utah Pollution Discharge Elimination System (UPDES) permit program under the Utah Water Quality Act.

### **DUE DILIGENCE - FINDINGS**

11. The following documents were reviewed as part of this variance approval, among others:
- a. Phosphorus Extension, Aqua Engineering (December 28, 2017).
  - b. Spanish Fork City Wastewater Treatment Plant Facility Plan, Aqua Engineering (December 2016; Updated December 2017).
  - c. Spanish Fork City Wastewater Treatment Plant Variance Extension Request, (May 2020).
  - d. Spanish Fork City Wastewater Treatment Plant Variance Extension Request, (January 2021).

12. Based on the foregoing submissions, the Director has determined that Spanish Fork has established due diligence toward construction of Biological Phosphorus Removal treatment facility upgrade or facility replacement designed to meet TBPEL, within the meaning of UAC R317-1-3.3.C.1.e.

### **VARIANCE**

13. The Director hereby grants Spanish Fork a variance as to the compliance date to achieve TBPEL, until the time that its facility improvements described in the Variance Request are operational; subject to the following conditions:

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- a. This variance does not extend beyond January 1, 2025. Spanish Fork must comply with all TBPEL requirements by that date.
    - i. DWQ will terminate the November 2018 Spanish Fork variance approval upon signing of this variance.
    - ii. Due to timing constraints the November 2018 variance approval will expire before this variance completes the DWQ public comment process. DWQ will view the November 2018 variance approval as effective until the signing of this variance.
  - b. Pursuant to UAC R317-1-3.3.C.2, this variance is subject to re-evaluation in the event that there is any substantive change in the facility design provided in the Variance Request. Spanish Fork must provide timely notice to DWQ of any such substantive changes.
  - c. By no later than October 1, 2022, Spanish Fork shall submit to DWQ an approvable complete construction permit application per UAC R317-3 for new facilities that will biologically remove phosphorus to 1.0 mg/L or less.
  - d. Beginning no later than July 1, 2021, and for every year thereafter while this variance is in effect, Spanish Fork agrees to submit to DWQ an annual report relating to its phosphorus discharges (the “Annual Report”). The scope of the Annual Report shall include descriptions of all projects and work necessary, in reasonable detail, to achieve compliance with the TBPEL rule. The Annual Report will provide a summary of progress and milestones achieved in all construction, study, funding, planning, and design projects during the previous reporting period, projected progress and milestones scheduled to be completed during the following reporting period, and if the project(s) are on schedule. The Annual Report will also provide information on effluent phosphorus concentrations to determine Spanish Fork’s compliance with Parts 11.e. and 11.f. of this variance, noted below.
    - i. The Annual Report must specifically state the **economic benefit per year** Spanish Fork will receive from January 1 to December 31 of the coming year from this due diligence variance for not treating total phosphorus to 1.0 mg/L.
  - e. If it is found that Spanish Fork has failed to comply with the requirements of this variance toward the construction of Biological Phosphorus Removal treatment facility upgrade the Division of Water Quality may terminate this variance.
    - i. If this variance is terminated by the Division of Water Quality, Spanish Fork will be immediately expected to comply with the requirements UAC R317-1-3.3.

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- f. Effective upon the date of signing, DWQ will impose the following interim effluent limitation under the Permit: total phosphorus annual average effluent limitation of 4.0 mg/L.

  
John Mackey (May 12, 2021 06:52 MDT)

John K. Mackey, P.E.  
Acting Director  
Utah Division of Water Quality

Date: 05/12/2021

DWQ-2021-004527