

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

**Ground Water Discharge Permit
Permit No. UGW570002**

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

**SUNNYSIDE COGENERATION ASSOCIATES (SCA)
PO Box 10
East Carbon, Utah 84520**

is granted a Ground Water Discharge Permit for the operation of the SCA #1 Ash Landfill associated with the Sunnyside Cogeneration Associates Plant located at Sunnyside in Carbon County, Utah.

The SCA #1 Ash Landfill is located on a tract of land within the northeast quarter of Section 12 Township 15 South Range 13 East, Salt Lake Base and Meridian. (110° 24' 38" W. Long. and 39° 32' 23" N. Lat.)

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 facilities 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 September 30th, 2023.

This permit and the authorization to operate shall expire at midnight, September 29th, 2028.

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

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I. SPECIFIC PERMIT CONDITIONS

A. Ground Water Classification

Monitoring data have shown variable ground water quality across the site. Ground water which is contained in or which has come in contact with the Mancos Shale may be Class III, Limited use Ground Water. The ground water classification for the alluvial aquifer associated with Icelandier Creek in the immediate vicinity of the SCA#1 Phase II and III Ash Landfill has come in contact with the Mancos Shale and is Class III - Limited Use Ground Water.

B. Background Water Quality

Background water quality for the Icelandier Creek alluvial aquifer associated with the SCA#1 Phase II and III Ash Landfill has been established from ground water monitoring results from well MW-7 between February 1998 and December 1999 (nine samples). Background water quality for SCA#1 at MW-7 is presented in Table 1.

Table 1
SCA #1 Background Water Quality

<u>Constituent</u>	<u>Mean Background Concentration, mg/L</u>	<u>Standard Deviation</u>
Calcium	138	159
Sodium	1,378	148
Potassium	17.6	15.8
Magnesium	49	49
Chloride	389	32
Sulfate	1,318	217
Bicarbonate	1,448	346
Carbonate	13	15

C. Ground Water Protection Levels

Ground water protection levels for downgradient well MW-7 associated with SCA #1 (Phase II and III) Ash Landfill for this permit are represented in Table 2.

Table 2
SCA#1 (Phase II and III) Ground Water Protection Levels

<u>Constituent</u>	<u>MW-7 Background Value (mg/L)</u>	<u>MW-7 Protection Level (mg/L)</u>
pH	7.98 units	6.5-8.5 units
TDS	4,290	5,363 ¹
Arsenic	0.006	0.025 ²
Barium	0.194	1.0 ²
Cadmium	<0.003	0.0025 ²
Copper	0.018	0.65 ²
Lead	<0.01	0.0075 ²
Selenium	0.0167	0.025 ²
Silver	0.0011	0.05 ²
Zinc	0.037	2.5 ²

1. 1.25 x background concentration for TDS
2. 0.5 x Ground Water Quality Standard for Class III Ground Water

D. Best Available Technology Standard

1. Authorized Construction and Operations

- a) The SCA #1 (Phase I, II, and III) Ash Landfill has been operated as a landfill strictly for disposal of ash generated from the burning of coal refuse obtained from the adjacent SCA coal refuse pile and Star Point coal refuse pile, or other similar refuse sources, and other coal based fuels [alternative fuels], limestone reagent added to control SO₂ emissions, and fuel oil or other high BTU coal (supplemental fuel) as limited by the FERC certification dated February 11, 1992, as supplemented by the Notice of Self-Certification of Sunnyside Cogeneration Associates as a Qualifying Small Power Production Facility in Docket No. QF86-556-004 filed April 19, 2000. While being loaded into trucks destined for the landfill, such ash will be conditioned with slurry containing water and water treatment solids. No other material is authorized for disposal by this permit in the Ash Disposal Area.

At the present time, the SCA #1 Phase I ash disposal area has completed the post closure monitoring period. The SCA#1 Phase II and III ash disposal area is now capped and in the 10-year post-closure period which began in August 2016.

2. Design and Construction

- a) *SCA #1 Ash Landfill Phase I Disposal Area* - The existing ash disposal was been constructed as previously designed and approved and is now closed, capped and re-seeded according to specifications. The 10-year post-closure period was completed in 2008.
- b) *SCA #1 Ash Landfill Phase II and III Disposal Area* – The ash disposal area was constructed as previously designed and approved and is now closed, capped and re-seeded according to specifications. The Phase II and III landfill is now in the 10-year post-closure monitoring period, which began in August 2016.

3. Run-on and Run-off Control

Surface water run-on will be controlled by site grading and ditches to direct drainage away from the SCA #1 Ash Landfill Phase I, II, and III Disposal Areas.

4. Sediment Basins

Storm water and ash-contact run-off is collected in the sediment basins. These basins approved and permitted by the UPDES process for surface discharge to Icelander Creek (UPDES Permit UT0024759).

E. **Compliance Monitoring**

1. Compliance Monitoring Points

Sunnyside Cogeneration Associates shall operate ground water monitoring points as follows:

- a) *SCA#1 Ash Landfill Phase II and III Disposal Area* - Monitoring well MW-7 will serve as the downgradient monitoring point.
- b) All monitoring wells are constructed in accordance with criteria contained in the EPA RCRA Ground Water Monitoring Technical Enforcement Guidance Document, 1986, OSWER-9950.1 (RCRA TEGD).

2. Future Modification of the Monitoring Well Network

If at any time the Division Director determines the monitoring program to be inadequate, Sunnyside Cogeneration Associates shall submit within 30 days of receipt of written notice from the Division Director a modified monitoring plan that addresses the inadequacies noted by the Division Director.

3. Compliance Monitoring Period

Monitoring shall commence upon issuance of this permit and shall continue at the SCA #1 ash landfill through a 10-year period following final closure of that ash landfill.

4. Monitoring Frequency

The ground water monitoring wells will be sampled semi-annually while the corresponding ash disposal landfill is open, according to the requirements of Part I.E.5(c).

5. Monitoring Requirements

- a) In association with each sampling event, water level measurements shall be made in the monitoring well prior to removal of any water from the well bore. Measurements will be made from a permanent single reference point clearly marked on the top of the well or surface casing. Measurements will be made to the nearest 0.01 foot, and reported as elevation above sea level.
- b) Water quality samples will be collected, handled and analyzed in conformance with the Water Quality Sampling Plan that has been approved by the Division Director. Sampling at additional surface water monitor points shall be done according to the Water Quality Sampling Plan.
- c) The following analyses shall be performed on all compliance monitoring samples collected:
 - i) Field Measurements: pH, specific conductance, temperature
 - ii) Laboratory Analysis:
 - Major Ions: (Chloride, Sulfate, Carbonate, Bicarbonate, Sodium, Potassium, Magnesium, and Calcium)
 - TDS
 - Metals: (As, Ba, Cd, Cu, Pb, Se, Ag, Zn)
- d) Ash leachate analysis is no longer required for the SCA #1 Ash Landfill as it is no longer in operation and has been reclaimed.

6. Post Closure Monitoring

The Permittee shall conduct monitoring after final capping and closure of each Ash Disposal Area Phase on a semiannual frequency for a period of 10 years after final closure. Water Quality sampling from the monitoring wells will include the same field and lab analysis contained in Part I.E.5(c).

7. Laboratory Approval

All water quality analyses shall be performed by a laboratory certified by the State of Utah to perform such analysis.

F. **Non-Compliance Status**

1. Probable Out-of-Compliance Status

Other than as provided in paragraph I.F.2 below, Sunnyside Cogeneration Associates shall evaluate the results of each round of ground water sampling analytical results to determine any exceedance of the Ground Water Protection Levels outlined in Part I Table 2. Upon determination by Sunnyside Cogeneration Associates that a Protection Level has been exceeded, at the compliance monitoring well, Sunnyside Cogeneration Associates shall:

- a) Immediately re-sample the exceeding monitoring well, submit analytical results from the re-sampling, and notify the Division Director of the probable out-of-compliance status within 30 days of initial detection.
- b) Implement a monthly frequency of sampling for the ground water monitoring well required by this permit. The monthly frequency shall continue until the Division Director notifies Sunnyside Cogeneration Associates that the permitted monitoring frequency can be resumed.

2. Probable Out-of-Compliance Status for Total Dissolved Solids

In the event total dissolved solids (TDS) exceeds 5,363 mg/L in well MW-7; and no other parameters exceed Protection Levels, the Permittee shall prepare a report on the cause of the exceedance for submission with the next regular monitoring report. This report must show an analysis of major ion chemistry at the monitoring point for the current sampling event and any past data needed to evaluate the cause of the exceedance. If the Exceedance Report fails to identify the probable cause for exceeding the Protection Limits in Table 2, the analysis shall include Piper and Stiff diagrams for water chemistry of the monitoring points, ash leachate, and leachate from naturally occurring materials at the site, and water from the ash runoff basin. Other information, such as trend analysis, may also be presented to support the report's conclusions.

In the event the report does not satisfactorily demonstrate that the TDS exceedance was caused by factors other than that of the landfill, the Permittee shall follow the procedures in Parts I.F.1 and 3, as applicable. Based on available information, the Division Director may require changes

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in the compliance-monitoring plan to better monitor the landfill's effects on ground water.

3. Out-of-Compliance Status due to Exceedance of Permit Limits

Based on the accelerated monitoring results obtained under monthly sampling as listed in Part I.F.1, Sunnyside Cogeneration Associates shall determine in accordance with UAC R317-6-6.16, if an out of compliance situation exists. Upon making this determination Sunnyside Cogeneration Associates shall:

- a) Notify the Division Director of the out of compliance status within 24 hours of detection.
- b) Submit a Source Assessment and Compliance Schedule to the Division Director within 30 days of detection of the out of compliance status that outlines the following:
 - i) Steps of action that will assess the extent of the contamination and identify its source.
 - ii) Measures that will be taken to alleviate contribution of any further contamination to the ground water and prevent any recurrence of the non-compliance.
 - iii) Actions that will be taken to mitigate and remediate existing contamination from the implicated facility.
- c) Implement the Source Assessment and Compliance Schedule within 120 days of approval by the Division Director.

4. Out-of-Compliance Status due to Failure of Best Available Technology

If the Permittee determines that an out of compliance situation exists due to failure to maintain best available technology, Sunnyside Cogeneration Associates shall notify the Division Director according to the provisions of this permit.

In the event a compliance action is initiated against the Permittee for violation of permit conditions relating to containment technology, the Permittee may affirmatively defend against that action by demonstrating the following:

- a) The Permittee submitted notification according to the provisions of this permit.
- b) The failure was not intentional or caused by the Permittee's negligence, either in action or failure to act.
- c) The Permittee has taken adequate measures to meet permit conditions in a timely manner or has submitted to the Division

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Director, for his approval, an adequate plan and schedule for meeting permit conditions; and

- d) The provisions of Utah Code Ann. § 19-5-107 have not been violated.

G. Reporting Requirements

1. Reporting

Water quality sampling results shall be submitted to the Division Director as follows:

<u>Semi-Annual Sampling</u>	<u>Report Due On</u>
1 st (Jan., Feb., March, April, May, June)	July 15
2 nd (July, Aug., Sept., Oct., Nov., Dec.)	January 15

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

H. Compliance Schedule

Reports of compliance or noncompliance with, or any progress report on interim and final requirements contained in any compliance schedule of this permit shall be no later than 14 days following each schedule date.

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 R317-6-6.3.L, 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 during each reporting period specified in the permit, shall be submitted to the Division Director, Utah Division of Water Quality at the following address no later than the 15th day of the month following the completed reporting period:

State of Utah
Division of Water Quality
Department of Environmental Quality
P.O. Box 144870
Salt Lake City, Utah 84114-4870
Attention: Ground Water Protection Program

Electronic Document Submission:

<https://deq.utah.gov/water-quality/water-quality-electronic-submissions>

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 (3) years from the date of the sample, measurement, report or application. This period may be extended by request of the Division Director at any time.

I. Twenty-four Hour Notice of Noncompliance Reporting

1. The Permittee shall verbally report any noncompliance that 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 Division 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,

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- 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 III D are submitted.

K. Inspection and Entry

The Permittee shall allow the Division 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 reissuance, or modification; or for denial of a permit renewal application. The Permittee shall give advance notice to the Division Director of any planned changes in the permitted facility or activity that 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 that 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 that are installed by a Permittee only when the operation is necessary to achieve compliance with the conditions of the permit.

IV. GENERAL REQUIREMENTS

A. Planned Changes

The Permittee shall give notice to the Division 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 that 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 reissuance, 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 Division Director, within a reasonable time, any information which the Division 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 Division 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 Division Director, it shall promptly submit such facts or information.

G. Signatory Requirements

All applications, reports or information submitted to the Division 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 the Division 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 Division 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 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 Division 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 Division 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 Division 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 Division 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 R317-6.4(D).
2. If alternative compliance mechanisms are required.
3. If subsequent ground water monitoring data reveals the background water quality values in Part I Tables 1, 2, 3 or 4 are not accurate.
4. If data collected subsequent to permit issuance indicate that the fresh water reservoir and or the coal runoff basin present risks to ground water quality.