

**STATE OF UTAH
DIVISION OF WATER QUALITY
DEPARTMENT OF ENVIRONMENTAL QUALITY
SALT LAKE CITY, UTAH**

Section 401 Water Quality Certification No. DWQ-2023-05001

Project Proponents: Rex Harris, Project Manager
Utah Department of Transportation (UDOT)
166 West Southwell Street
Ogden, UT 84404

Project:

The Project Proponent (UDOT) is proposing the extension of State Route 193 (SR-193) from 3000 West approximately 1.6 miles to 4500 West (SR-110). The Project Proponent indicates that the SR-193 extension (the Project) is needed to alleviate traffic on local roads and improve connectivity in the area. Based on the available information, the overall project purpose is to improve local east/west connectivity to existing regional routes such as I-15, and future routes such as the West Davis Corridor (WDC). This Project received a 401 Certification on May 5, 2021. Due to the design modifications to the drainage features, the Project Proponent requests a new 401 Certification. The Project Proponent proposes that a storm water management system is necessary within the extension of SR-193 to manage water around the new road extension. The proposed Project will impact approximately 6.56 acres of Waters of the US (WOTUS). Approximately 5.52 acres of palustrine emergent wetlands would be unavoidably filled by 4,945 CY road base for the SR-193 extension. Construction activities would temporarily disturb approximately 1.04 acres of palustrine emergent wetlands. The Project will also permanently impact 15 linear feet of a ditch and 0.03 acres WOTUS that will be unavoidably filled with 10 CY of fill material. These impacts are proposed due to the installation the proposed storm water discharge culvert and associated riprap apron at the intersection of SR-193 and SR-110. The Project would incorporate a detention basin located west of the WDC and north of 700 South. The location of the detention basin is a result of collaboration with local municipalities and Davis County during the development of both the WDC and the SR-193 design plans and will result in minimal wetland impacts. UDOT has revised the previous design to minimize the indirect effects on wetlands based on USACE comments. The Project has completed a State Environmental Study to assess and minimize environmental impacts. The project proponent will acquire all UPDES permits for construction. BMPs will be utilized during the Project to minimize impacts to the surrounding aquatic resources. The Project Proponent also proposes to satisfy the required 2:1 ratio of Compensatory Mitigation for the total PEM wetland impacts by purchasing credits at Machine Lake Mitigation Bank Saline Wet Meadows. The Proponent will purchase a total of 11.06 ac of Machine Lake Bank Mitigation Credits for the proposed 5.92 wetland impacts.

Location: 4500 West to 3000 West through West Point and Syracuse Cities in Davis County, Utah. The approximate coordinates for the eastern end of the project are latitude:

41°06'39" N and longitude: 112°05'1" W. The western end located at latitude:
41°06'35" N and longitude 112°06'49" W.

Watercourse(s): The proposed project will impact 15 linear feet, 0.03 ac of Unnamed Linear Surface Waters and 6.56 ac of Palustrine Emergent Wetlands.

USACE Section 404: SPK-2019-00865

Effective Date: Month, Day, Year

PND DRAFT

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I. Definitions

- A. **Designated Beneficial Uses** means a water's present most reasonable uses, grouped by use classes to protect the uses against controllable pollution. Beneficial uses designated within each class are described in Utah Administrative Code (UAC) R317-2-6 and waterbodies beneficial uses can be found in UAC R317-2-13. For the purposes of this document, the term "designated beneficial uses" will be used to describe all uses required to be protected by Utah water quality standards and antidegradation policy.
- B. **Beneficial Use Classes** are how waters of the state are grouped and classified to protect against controllable pollution the beneficial uses designated within each class. UAC R317-2-6.
- C. **Category 1 Waters** are "*Waters which have been determined by the Board to be of exceptional recreational or ecological significance or have been determined to be a State or National resource requiring protection, shall be maintained at existing high quality through designation, by the Board after public hearing, as Category 1 Waters.*" UAC R317-2-3.2
- D. **Category 2 Waters** "*are designated surface water segments which are treated as Category 1 Waters except that a point source discharge may be permitted provided that the discharge does not degrade existing water quality.*" UAC R317-2-3.3
- E. **Designated Beneficial Uses** means a water's present most reasonable uses, grouped by use classes to protect the uses against controllable pollution. Beneficial uses designated within each class are described in Utah Administrative Code (UAC) R317-2-6 and waterbodies beneficial uses can be found in UAC R317-2-13.
- F. **Existing Uses** "*means those uses actually attained in a water body on or after November 28, 1975, whether or not they are included in the water quality standards.*" UAC R317-1-1. "*If a situation is found where there is an existing use which is a higher use (i.e., more stringent protection requirements) than that current designated use, the Director will apply the water quality standards and anti-degradation policy to protect the existing use.*" UAC R317-2-3.
- G. **Level I Antidegradation Review (ADR):** "*is conducted to insure that existing uses will be maintained and protected.*" UAC R317-2-3.5
- H. **Level II Antidegradation Review (ADR)** is conducted to insure that water quality degradation is necessary and that the proposed activity is documented to be both economically and socially important. Level II ADRs are required for any activity that's impacts are not considered temporary and limited and is likely to result in degradation of water quality.
- I. **Project Proponent** "*means the applicant for license or permit or entity seeking certification.*" 40 CFR §121.1.
- J. **Protection Category:** "*Utah's surface waters are assigned to one of three protection categories that are determined by their existing biological, chemical and physical integrity, and by the interest of stakeholders in protecting current conditions.*" Utah Antidegradation Review Implementation Guidance (V 2.1)
- K. **Temporal Loss:** "*is the time lag between the loss of aquatic resource functions caused by the permitted impacts and the replacement of aquatic resource functions at the compensatory mitigation site.*" 40 CFR 230.92
- L. **Total Maximum Daily Load (TMDL)** "*means the maximum amount of a particular pollutant that a waterbody can receive and still meet state water quality standards, and an allocation of that amount to the pollutant's sources.*" UAC R317-1-1
- M. **Waters of the United States (WOTUS)** means waterbodies subject to the provisions of the Clean Water Act.
- N. **303(d) list** is a state's list of impaired and threatened waters, including but not limited to; streams, lakes, and reservoirs adopted to implement the Clean Water Act Section 303(d).

II. Acronyms

AC-acres
AU – Assessment Unit
BMPs – Best Management Practices
CFR – Code of Federal Regulations
CWA – Clean Water Act

CY – cubic yards
DEQ – Utah Department of Environmental Quality
DWQ – Utah Division of Water Quality
EIS – Environmental Impact Statement
EPA – Environmental Protection Agency
LOP – Letter of Permission
mg/L – milligrams per liter
MS4 – Municipal Separate Storm Sewer System
NEPA – National Environmental Policy Act
NOI – Notice of Intent
NTU – Nephelometric Turbidity Units
NWP – nationwide permit
PEM – palustrine emergent
ROW – right of way
SWPPP – stormwater pollution prevention plan
TMDL – Total Maximum Daily Load
TSS – total suspended solids
UAC – Utah Administrative Code
UPDES – Utah Pollutant Discharge Elimination System
USACE – U.S. Army Corps of Engineers
WDC- West Davis Corridor
WQC – Water Quality Certification
WQS – Utah Water Quality Standards
WOTUS – Waters of the United States

III. Executive Summary

Pursuant to Section 401 of the CWA 33 U.S.C. Section 1251 et seq., the DWQ grants Water Quality Certification (Certification) to The Utah Department of Transportation (UDOT) for the proposed SR-193 Expansion Project (the Project) in Davis County, UT. Certification is subject to the conditions outlined in this document and adherence to any U.S. Army Corps of Engineers (USACE) Section 404 Permit Conditions. The conditions outlined in this Certification are necessary to assure compliance with effluent limitations, monitoring requirements, and/or other applicable laws and regulations adopted for state primacy of the CWA.

DWQ’s conditions are based on and are necessary to comply with applicable state rules. Specifically, the following Utah rules represent overarching considerations that require the conditions outlined by this document to apply to the USACE Section 404 Permit: Utah’s rules promulgating standards of quality for waters of the State affirm “*it shall be unlawful and a violation of these rules for any person to discharge or place any wastes or other substances in such manner as may interfere with designated uses protected by assigned classes or to cause any of the applicable standards to be violated*” UAC R317-2-7.1.a. Additionally, “*all actions to control waste discharges under these rules shall be modified as necessary to protect downstream designated uses*” UAC R317-2-8. As stated in UAC R317-15-6.1 the Director will ordinarily consider whether the proposed discharge “*impairs the designated beneficial use classifications (e.g., aquatic life, drinking water, recreation) in Section R317-2-6*” UAC R317-15-6.1. A.1., “*exceeds water quality criteria, either narrative or numeric, in Section R317-2-7*” UAC R317-15-6.1A.2. or “*fails to meet the antidegradation (ADR) requirements of Section R317-2-7*” UAC R317-15-6.1. A.3.

The Utah DWQ attended a pre-filing meeting with the project proponent on January 5, 2023 to discuss the proposed alterations from the previously 401 Certified SR-193 Extension Project. On May 22, 2023 Ryan Halverson submitted a 401 Certification Application for the SR-193 Extension Project to DWQ on behalf of UDOT. Nicole

Fresard of USACE determined the Reasonable Period of Time to be 90 days from May 22, 2023. DWQ has until August 20, 2023 to grant, deny, or expressly waive certification.

IV. Background

The Project Proponent (UDOT) is proposing to extend SR-193 from its current western terminus at 3000 West approximately 1.6 miles to 4500 West (SR-110) through West Point and Syracuse cities in Davis County, UT. The Project Proponent indicates that the SR-193 Extension (the Project) will be constructed to alleviate traffic on local roads and improve connectivity in the area. The proposed installation and drainage features construction for the Project were proposed to be necessary to maintain the road's safety and the area's hydrology. The Project Proponent proposes installing pipes and a detention basin to construct a new storm water conveyance system along SR-193. The total project area is approximately 51 acres, primarily within agricultural farmlands, and some residential areas also border the Project. The western terminus of the project area is approximately 0.8 miles east of the Great Salt Lake. In the east segment of the project area, between 3000 West and the WDC, the project proponent plans to continue the four-lane divided highway with a 150-foot-wide right-of-way constructed entirely in uplands. In the west segment between the WDC and 4500 West, the Project Proponent proposes a reduced three-lane road with an 84-foot-wide right of way where permanent and temporary impacts to WOTUS will occur due to the road and storm water system construction. Based on the available information, the overall Project purpose is to improve local east/west connectivity to existing regional routes, such as I-15, and future routes, such as the WDC. The project proponent believes there is a need to reduce traffic congestion on local roads and improve travel times. The Project Proponent previously obtained a 401 Certification from DWQ on June 15, 2021. After Certification, revisions were made to the previously certified Project that included storm water drainage system that would alter the Project's WOTUS impacts. UDOT has submitted a new 401 Certification request to include the updated Proposed Project.

The Project Proponent proposes installing a 36-inch buried pipe within the right-of-way of SR-110 at the intersection with SR-193. The pipe would convey outflow from a 0.7 ac detention basin, which will be constructed by others along the east side of SR-110. The outflow pipe will extend north for approximately 890 feet, pass under SR-110, and outflow into an existing stormwater drainage ditch flowing west. A riprap apron will be installed. The drainage pipe along SR-110 would also be extended to the south for approximately 275 feet to tie into the drainage system from the south but will not have any impacts.

Additionally, the project proponent proposes converting a previously constructed 1.6 ac retention basin into a detention basin near SR-193 at the WDC interchange. The basin would be 50 feet wide, approximately 900 feet long, and excavated 2 to 3 feet below the existing ground surface. A 24-inch outflow pipe would be installed from the basin northward for approximately 825 feet and connected to the west-flowing drainage pipe at SR-193. The outflow pipe will result in only minor temporary wetland impacts due to installation. The Project Proponent proposes to realign a small existing surface ditch located on the east side of SR-193 for water conveyance. The Project Proponent would install a concrete-lined ditch at the interchange to direct flow to the west along SR-193 for about 200 ft and then south to a culvert installed under SR-193. Flow from the culvert would then be directed southeast with the additional installation of a concrete-lined ditch for about 570 feet. This would be reconnecting with the existing surface drainage ditch that flows south. Two additional culverts are proposed to be installed under SR-193 to maintain wetland hydrology on each side of SR-193.

Impacts

The discharge of fill material into wetlands and other waters is associated with the road base for the SR-193 roadway and the installation of stormwater management facilities. The Proposed Project will impact a total of

6.56 ac WOTUS. The Project Proponent proposes that the construction of the outlet and riprap apron for the stormwater system along SR-110 is will require 10 CY of fill to be placed in the area. This will permanently impact 15 linear feet, and 0.003 ac of Surface Waters considered WOTUS. Approximately 4,945 CY of fill material will fill 5.52 acres of PEM wetlands, mostly for the road base for the Proposed Project. Approximately 1.04 acres of PEM wetlands would be temporarily disturbed by construction activities. Of the total wetland impacts relocating the small existing ditch near the east side of SR-193 and installing the stormwater outflow discharge pipe from the detention basin will permanently impact 0.38 ac of PEM wetlands and temporarily impact 0.39 ac of wetlands. The construction of the stormwater detention basin north of 700 South and the relocation of the drainage ditch is also included in the wetland impact acreage. Approximately 1,620 cubic yards of wetland soils are proposed to be dredged to construct the detention basin. Some of this soil may be utilized for construction. Temporary placement of fill will occur for construction access and work areas in saturated soils in wetland areas.

Mitigation/Minimization

This Project was initially submitted to the USACE on March 4, 2021. After public notice and comments from the USACE, several modifications were made to the design to minimize indirect effects on the PEM wetlands. UDOT has completed a State Environmental Study to assess and minimize environmental impacts. The proposed detention basin designs were based on UDOT standards capable of containing a 50-year flood event and able to have controlled overflow for a 100-year flood event. The fill material will comprise a clean gravel road base obtained from a local burrow source. The Project Proponent indicated that all appropriate UPDES permits would be obtained for the Project. Stormwater discharges would comply with the UDOT's Municipal Separate Storm Sewer System (MS4) permit. The detention basin would retain and treat stormwater before being conveyed through the proposed storm drain along SR-110. The Project Proponent proposes incorporating BMPs into the project stormwater system to reduce environmental impacts. Construction BMPs such as silt fences, boundary delineation, and replanting of native vegetation will also be utilized for the Project. The Project Proponent also proposes to satisfy the required 2:1 ratio of Compensatory Mitigation for the total PEM wetland impacts by purchasing credits at Machine Lake Mitigation Bank Saline Wet Meadows. The Proponent will purchase a total of 11.06 ac of Machine Lake Bank Mitigation Credits for the proposed 5.92 wetland impacts.

V. Aquatic Resource Impacts

All Waters of the State of Utah (defined in UAC R317-1-1) are protected from pollutant discharges that affect water quality by narrative standards (see UAC R317-2-7.2); broadly, discharges should not become offensive or cause undesirable conditions in human health effects or aquatic life. In addition, some particularly sensitive classes of water are further protected from deleterious effects of specific pollutants by application of numeric criteria to designated beneficial uses of that waterbody. Listed below are the water features, grouped by AUs, impacted by the Project, their associated designated beneficial uses (see UAC R317-2-6 and UAC R317-2-13) and any impairments:

A. Unnamed Ditch, Davis County Waters UT- not defined, Weber River Watershed.

1. Beneficial Use Designations

- a. Class 2B: Protected for infrequent primary contact recreation. Also protected for secondary contact recreation where there is a low likelihood of ingestion of water or a low degree of bodily contact with the water. Examples include, but are not limited to, wading, hunting, and fishing.
- b. Class 3D: Protected for waterfowl, shore birds and other water-oriented wildlife not included in Classes 3A, 3B, or 3C, including the necessary aquatic organisms in their food chain.

2. Impairments and Total Maximum Daily Loads (TMDLs): N/A

3. Antidegradation Review

Waters within the Davis County Waters UT- not defined, are considered Category 3 waters for antidegradation purposes. Category 3 waters in Utah are waters where “*point source discharges are allowed and degradation may occur, pursuant to the conditions and review procedures outlined in Section 3.5*”, as described in UAC R317-2-3.4. The antidegradation policy allows for discharges where the water quality effects of the proposed Project are determined to be temporary and limited after consideration of the factors identified in UAC R317-2-3.5.b.4., and where best management practices (BMPs) would be employed to minimize pollution effects.

B. PEM Wetlands [¹]

1. Beneficial Use Designations

- a. Class 2B: Protected for infrequent primary contact recreation. Also protected for secondary contact recreation where there is a low likelihood of ingestion of water or a low degree of bodily contact with the water. Examples include, but are not limited to, wading, hunting, and fishing.
- b. Class 3D: Protected for waterfowl, shore birds and other water-oriented wildlife not included in Classes 3A, 3B, or 3C including the necessary aquatic organisms in their food chain.

2. Impairments and TMDLs: N/A

3. Antidegradation Review

The PEM wetlands are considered a Category 3 water for antidegradation purposes. Category 3 waters in Utah are waters where “*point source discharges are allowed and degradation may occur, pursuant to the conditions and review procedures outlined in Section 3.5*”, as described in UAC R317-2-3.4. The antidegradation policy allows for discharges where the water quality effects of the proposed Project are determined to be temporary and limited after consideration of the factors identified in UAC R317-2-3.5.b.4., and where BMPs would be employed to minimize pollution effects.

VI. Certification Conditions

- A. All activities with a potential discharge to WOTUS must implement and maintain BMPs to fully protect the waterbodies assigned beneficial use(s).
- B. Hazardous and otherwise deleterious materials (e.g. oil, gasoline, chemicals, trash, sawdust, etc.) shall not be stored, disposed of, or accumulated or conveyed through adjacent to or in immediate vicinity WOTUS unless adequate measures and controls are provided to ensure those materials would not enter WOTUS in the State of Utah. **Any spill or discharge of oil or other substance which may cause pollution to WOTUS in the State of Utah, including wetlands, must be immediately reported to the Utah DEQ Hotline at (801) 536-4123, a 24-hour phone number.**
- C. All activities conducted in WOTUS in the State of Utah shall be conducted in the “dry” to the maximum extent practicable, by diverting flow utilizing cofferdams, berms constructed of sandbags, clean rock (containing no fine sediment) or other non-erodible, non-toxic material. All diversion materials shall be

¹ In UAC R317-2-13, all waters not specifically classified are presumptively classified 2B and 3D.

removed at the completion of the work. The Project Proponent shall consider conducting instream work during low flow conditions and work shall not be conducted during spawning season. Additionally, construction machinery shall not be operated within WOTUS in the State of Utah unless it is unavoidable, in which case it shall be conducted in the “dry” as stated above. The work shall be conducted in a manner to minimize the duration of the disturbance, turbidity increases, substrate disturbance, and minimize the removal of riparian vegetation. Construction machinery shall be clean to prevent the transfer of aquatic invasive species.

- D. Permanent culverts must be installed below existing stream bed elevation, to allow natural substrate to reestablish. This is required to prevent downstream impacts to beneficial uses and adhere to the requirements in UAC R317-2-3.
- E. See Past Conditions Project activities shall not increase water turbidity by more than 10 Nephelometric Turbidity Units (NTUs) in waterbodies classified as beneficial use class 2B for recreation and 3A for cold water aquatic life. Project Proponents must continuously monitor turbidity during instream construction to ensure turbidity increases are within the limits listed above. The Project Proponents must provide monthly reports to DWQ during instream construction in waterbodies with class 2B and 3A beneficial use designations that include at a minimum: baseline (reference) turbidity measurements in each waterbody where instream construction is occurring; and identifying any exceedances and duration of exceedances that have occurred during instream work.
- F. Construction activities that disturb either greater than one acre of land, or less than one acre of land and is part of a larger common plan of development that would disturb greater than one acre, are required to obtain coverage under the Utah Pollutant Discharge Elimination System (UPDES) Storm Water General Permit for Construction Activities (Permit No. UTRC00000^[2]). The permit requires the development of a Storm Water Pollution Prevention Plan (SWPPP) to be implemented and updated from the commencement of any soil disturbing activities at the site, until final stabilization of the project. The SWPPP should include, but not be limited to, final site maps and legible plans, location of storm water outfalls/discharges, and information pertaining to any storm water retention requirements.
- G. Dewatering activities, if necessary during construction, may require coverage under the UPDES General Permit for Construction Dewatering (Permit No. UTG070000^[3]) applies to the construction dewatering of uncontaminated groundwater or surface water sources due to construction activities; hydrostatic testing of pipelines or other fluids vessels; water used in disinfection of drinking water vessels; and other similar discharges in the State of Utah that have no discharge of process wastewater. The permit requires submission of a Notice of Intent (NOI); maintenance of a discharge log; development and implementation of a dewatering control plan; and monitoring for Flow, Oil & Grease, pH, Total Suspended Solids (TSS), and Chlorine (required when chlorinated water is used and discharged to a stream with a chlorine standard). Discharge Monitoring Reports (DMRs) are required to be submitted monthly, regardless of whether a site discharges in a particular month.

² <https://documents.deq.utah.gov/water-quality/stormwater/construction/DWQ-2020-013890.pdf>

³ <https://documents.deq.utah.gov/water-quality/permits/updes/DWQ-2019-005143.pdf>

VII. Condition Justification and Citation

- A. Implementation of BMPs. Project approval is conditioned on implementation of BMPs, which are required to be implemented by the antidegradation policy in UAC R317-2-3, water quality standards may be violated unless appropriate BMPs are incorporated to minimize the erosion-sediment and nutrient load. Violations of water quality standards could cause a waterbody to fail to meet its designated beneficial uses. As required by Utah's antidegradation policy UAC R317-2-3.1 "*Existing instream water uses shall be maintained and protected. No water quality degradation is allowable which would interfere with or become injurious to existing instream water uses.*" As stated in UAC R317-15-6.1 the Director will ordinarily consider whether the proposed discharge "*impairs the designated beneficial use classifications (e.g., aquatic life, drinking water, recreation) in Section R317-2-6*" UAC R317-15-6.1.A.1., "*exceeds water quality criteria, either narrative or numeric, in Section R317-2-7*" UAC R317-15-6.1.A.2. or "*fails to meet the antidegradation (ADR) requirements of Section R317-2-7*" UAC R317-15-6.1.A.3 when making a Certification decision. If appropriate BMPs are incorporated, there is assurance that the Project will not violate water quality standards or impair a waterbody's beneficial use.

Citation(s): UAC R317-2-3.1, UAC R317-15-6.1, UAC R317-15-6.1.A.1., UAC R317-15-6.1.A.2., UAC R317-15-6.1.A.3.

- B. Proper Storage of Hazardous and Otherwise Deleterious Materials. Project approval is conditioned on proper storage of hazardous and otherwise deleterious materials, and notification of any discharge of those materials, to assure that water quality and narrative standards are not violated. When projects are occurring in or around waterbodies, there is a chance for pollutants to inadvertently be spilled/discharged into waterbodies due to increased risk from project related activities (e.g. presence of machinery, onsite chemical and gas storage, improper waste storage, and failure to use proper BMPs). To prevent or reduce the possibility that hazardous and otherwise deleterious materials are inadvertently discharged into a waterbody, Project Proponents must not store, dispose of, or accumulated such materials adjacent to or in immediate vicinity of WOTUS unless adequate measures and controls are provided to ensure those materials would not enter waters of the State. If there is a discharge to WOTUS in the State of Utah, it must be immediately reported to the DEQ, as stated in Utah Code Section 19-5-114. An inadvertent discharge of pollutants can cause violations with Utah's Narrative Standards, which states "*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 aquatic 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*" UAC R317-3-7.2. Utah's rules promulgating standards of quality for waters of the State affirm "*it shall be unlawful and a violation of these rules for any person to discharge or place any wastes or other substances in such manner as may interfere with designated uses protected by assigned classes or to cause any of the applicable standards to be violated*" UAC R317-2-7.1.a. Discharges of pollutants, even inadvertently, could cause both a violation of applicable water quality standards and possibly interfere with a waterbodies designated uses.

Citation(s): Utah Code § 19-5-114, UAC R317-3-7.2, UAC R317-2-7.1.A, UAC R317-15-6.1., UAC R317-15-6.1.A.1., UAC R317-15-6.1A.2.

C. Dry Conditions to the Maximum Extent Practicable. Project approval is conditioned on conducting activities under dry conditions to the maximum extent practicable to assure that water quality standards are not exceeded. Construction machinery used within a waterbody can cause significant impacts to water quality if adequate precautions are not taken. When it is unavoidable to operate construction machinery within the waterbody the Project Proponent should focus on minimizing the duration of the disturbance, turbidity increase, substrate disturbance, removal of riparian vegetation, and work shall be conducted in the “dry” to the maximum extent practicable. Minimizing the duration of impact reduces the chance that the impacts will accumulate and cause significant impacts to water quality. Minimizing turbidity increases is important because the State of Utah has numeric water quality criteria for turbidity in certain use designations, which could be violated if the Project Proponent does not take proper steps to minimize the increases. Water quality criteria for turbidity will be violated if there is an increase of 10 NTUs in waterbodies with designated uses related to recreation and if there is an increase of 10 NTUs (class 3A and 3B) or 15 NTUs (class 3C and 3D) in waterbodies with aquatic wildlife designated uses. UAC R317-2-14.1 and UAC R317-2-14.2. Conducting work in the “dry” to the maximum extent practicable will help reduce the risk of the numeric criteria for turbidity to be exceeded, as well as reduce the risk of a significant sediment load being transported downstream. Discharges of sediment can not only violate numeric criteria, but also, risk violating Utah’s narrative standard *“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 aquatic 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.”* UAC R317-2-7.2. Violations of numeric and narrative criteria could cause a waterbody not to meet its designated beneficial use and a transport of sediment downstream could prevent a downstream waterbody from meeting its designated beneficial uses. As required by Utah’s antidegradation policy UAC R317-2-3.1 *“Existing instream water uses shall be maintained and protected. No water quality degradation is allowable which would interfere with or become injurious to existing instream water uses”*. Additionally, *“All actions to control waste discharges under these rules shall be modified as necessary to protect downstream designated uses”* UAC R317-2-8. As stated in UAC R317-15-6.1 the Director will ordinarily consider whether the proposed discharge *“impairs the designated beneficial use classifications (e.g., aquatic life, drinking water, recreation) in Section R317-2-6”* UAC R317-15-6.1.A.1., *“exceeds water quality criteria, either narrative or numeric, in Section R317-2-7”* UAC R317-15-6.1A.2. or *“fails to meet the antidegradation (ADR) requirements of Section R317-2-7”* UAC R317-15-6.1.A.3 when making a certification decision.

Citation(s): UAC R317-2-3.5., UAC R317-2-7.1.A., UAC R317-2-14.1, UAC R317-2-14.2., UAC R317-2-7.1.a., UAC R317-2-7.2., UAC R317-2-3.1, UAC R317-2-8. , UAC R317-15-6.1, UAC R317-15-6.1.A.1, UAC R317-15-6.1A.2., UAC R317-15-6.1.A.3.

D. Culverts. Installing permanent culverts below existing streambed elevation, allowing natural substrate to reestablish is required to ensure the stream will continue to meet its beneficial uses in UAC R317-2-6 and to comply with Utah’s antidegradation policy in UAC 317-2-3. Installing the culverts below

existing streambed elevation reduces the potential for further stream erosion, increased sedimentation, and subsequent downstream water quality impacts while protecting existing fish habitat and preventing impediments to fish passage. Utah's antidegradation policy states "existing instream water uses shall be maintained and protected. No water quality degradation is allowable which would interfere with or become injurious to existing instream water uses" UAC R317-2-3.1. Failure to maintain designated beneficial uses would be considered a violation of Utah's rules and promulgated standards of quality for waters of the State, specifically Utah's antidegradation policy found at UAC R317-2-3. The Director will ordinarily consider whether the proposed discharge "impairs the designated beneficial use classifications (e.g., aquatic life, drinking water, recreation) in Section R317-2-6" UAC R317-15-6.1. A.1., "exceeds water quality criteria, either narrative or numeric, in Section R317-2-7" UAC R317-15-6.1A.2. or "fails to meet the antidegradation (ADR) requirements of Section R317-2-7" UAC R317-15-6.1. A.3 when making a certification decision.

Citations: UAC R317-2-6, UAC R317-15-6.1, UAC R317-15-6.1. A.1, UAC R317-15-6.1A.2, UAC R317-15-6.1A.3, R317-2-8.

- E. Turbidity Increases and Instream Construction Monitoring. Beneficial uses associated with recreation and aquatic life have been assigned numeric criteria for turbidity. An increase of more than 10 NTUs in class 2B and 3A waterbodies above the turbidity of that waterbody would be a violation of instream criteria for waterbodies that have recreation or aquatic life uses. Similarly, an increase of more than 15 NTUs in class 3D waterbodies above the turbidity of that waterbody would be a violation of instream criteria for waterbodies that have aquatic life uses. UAC R317-2-14.1 and UAC R317-2-14.2. Therefore, turbidity increases above those allowed by this Certification could cause the waterbody to fail to meet its designated beneficial use classes. Turbidity monitoring during instream construction in waterbodies with class 2B, 3A and 3D beneficial uses designations will ensure turbidity increases do not violate Utah's water quality standards. Utah's antidegradation policy states "existing instream water uses shall be maintained and protected. No water quality degradation is allowable which would interfere with or become injurious to existing instream water uses" UAC R317-2-3.1. Failure to minimize turbidity increases that result in the failure to maintain beneficial use class 2B or 3A would be considered a violation of Utah's rules and promulgated standards of quality for waters of the State, specifically Utah's antidegradation policy found at UAC R317-2-3. The Director will ordinarily consider whether the proposed discharge "impairs the designated beneficial use classifications (e.g., aquatic life, drinking water, recreation) in Section R317-2-6" UAC R317-15-6.1.A.1., "exceeds water quality criteria, either narrative or numeric, in Section R317-2-7" UAC R317-15-6.1A.2. or "fails to meet the antidegradation (ADR) requirements of Section R317-2-7" UAC R317-15-6.1.A.3 when making a certification decision.

Citations: UAC R317-2-3.1, UAC R317-2-3, UAC R317-2-14.1, UAC R317-2-14.2 R317-15-6.1, UAC R317-15-6.1. A.1, UAC R317-15-6.1A.2., UAC R317-15-6.1.A.3.

- F. UPDES Storm Water General Permit for Construction Activities (Permit No. UTRC00000). UAC R317-8-2.5, gives the Director authority to issue general permits to cover specific categories of discharges, including storm water and construction dewatering that is discharged to a surface water. According to UAC R317-8-3.9 (6)(d), construction activities that result in a land disturbance of equal to or greater than one acre, including clearing, grading, and excavation are "industrial activities" under

UAC R317-8-3.9(1)(a) and are therefore required to obtain and comply with a UPDES Permit for storm water discharges. This only applies to projects that meet or exceed one acre of disturbance.

Citation(s): UAC R317-8-3.9(6)(d) and UAC R317-8-3.9(1)(a)

G. UPDES General Permit for Construction Dewatering (Permit No. UTG070000). UAC R317-8-2.5, gives the Director authority to issue general permits to cover specific categories of discharges, including storm water and construction dewatering that is discharged to a surface water. Under the authority granted by UAC R317-8-2.5, the Director issued the General Permit for Construction Dewatering and Hydrostatic Testing, UPDES Permit No. UTG070000 renewed and effective as of February 1, 2020. UPDES Permit No. UTG070000 applies to construction dewatering of uncontaminated groundwater or surface water sources due to construction activities, hydrostatic testing of pipelines or other fluids vessels, water used in disinfection of drinking water vessels and other similar discharges in the State of Utah that have no discharge of process wastewater. This only applies to projects that require dewatering and discharge to surface water.

Citation(s): UAC R317-8-2.5

VIII. Disclaimers

A. Fees

1. The legislatively-mandated fee for the 2023 fiscal year is \$110.00/hour for review and issuance of the Section 401 Water Quality Certification. A quarterly invoice will be sent and your payment is due within 30 days.

B. Disclaimers

1. The Project Proponent must acquire all necessary easements, access authorizations and permits to ensure they are able to implement the Project. This Section 401 Certification does not convey any property rights or exclusive privileges, nor does it authorize access or injury to private property.
2. This Section 401 Certification does not preclude the Project Proponent's responsibility of complying with all applicable Federal, State or local laws, regulations or ordinances, including water quality standards. Permit coverage does not release the project proponent from any liability or penalty, should violations to the permit terms and conditions or Federal or State Laws occur.
3. A Project within a Municipal Separate Storm Sewer System (MS4) jurisdiction, must comply with all the conditions required in that UPDES MS4 Permit and associated ordinances. No condition of this Section 401 Certification shall reduce or minimize any requirements provided in the MS4 Permit. In the case of conflicting requirements, the most stringent criteria shall apply.

IX. Public Notice and Comments

As Stated in UAC R317-15-5., this Certification decision is subject to a 30 public notice period. Per UAC R317-15-5 draft certification decisions are subject to a thirty (30) day public notice. UAC R317-15-5.1 allows for the 30 public notice period to be lengthened or shortened for a good cause, which includes those projects that are routinely granted, a proposed activity is considered minor or a previously permitted activity. The project proponent is seeking an updated 401 Certification for a previously permitted project with minor changes.

Therefore, the DWQ has reduced the public notice permit to 14 days (2 weeks). After considering public comment, the Director may execute the Certification issuance, revise it, or abandon it.

A. Public Notice Dates:

B. Public Notice Comments/Response:

C. During finalization of the Certification certain dates, spelling edits, and minor language or formatting corrections may have been completed. Due to the nature of these changes they were not considered major and the Certification will not be Public Noticed again.

X. Water Quality Certification

The Utah DWQ certifies that if the Project Proponents adhere to the conditions outlined in this Certification and adheres to any USACE Section 404 Permit Conditions, then the Project will comply with water quality requirements and applicable provisions of the CWA sections 301 (Effluent Limitations), 302 (Water Quality Related Effluent Limitations), 303 (Water Quality Standards and Implementation Plans), 306 (National Standards of Performance), and 307 (Toxic and Pretreatment Effluent Standards).

John Mackey, P. E.

Date

DWQ-2023-119546