

Official Draft Public Notice Version **September 24, 2020**

The findings, determinations, and assertions contained in this document are not final and subject to change following the public comment period.

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

UTAH POLLUTANT DISCHARGE ELIMINATION SYSTEM (UPDES) PERMITS

Minor Industrial Permit No. **UT0026018**

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

UTAH AMERICAN ENERGY, INC. - LILA CANYON MINE (Sanitary + Industrial)

is hereby authorized to discharge from its facility to receiving waters named **Lila Canyon Wash and Grassy Wash** (tributaries to the Price River),

in accordance with specific limitations, outfalls, and other conditions set forth herein.

This permit shall become effective on **DATE/MONTH**, 2020.

This permit expires at midnight on **DATE/MONTH**, 2025.

Signed this **DATE** day of **MONTH**, 2020.

Erica Brown Gaddis, PhD
Director

DWQ-2020-016438

Table of Contents

<u>Outline</u>	<u>Page Number</u>
I. DISCHARGE LIMITATIONS AND REPORTING REQUIREMENTS.....	3
A. Description of Discharge Points	3
B. Narrative Standard	3
C. Specific Limitations and Self-Monitoring Requirements	3
D. Reporting of Monitoring Results	7
E. Storm Water Requirements	7
II. BIOSOLIDS REQUIREMENTS	8
III. MONITORING, RECORDING & GENERAL REPORTING REQUIREMENTS.....	109
A. Representative Sampling	109
B. Monitoring Procedures.....	109
C. Penalties for Tampering.....	109
D. Compliance Schedules.....	109
E. Additional Monitoring by the Permittee	109
F. Records Contents.....	109
G. Retention of Records	109
H. Twenty-four Hour Notice of Noncompliance Reporting.....	9
I. Other Noncompliance Reporting.....	110
J. Inspection and Entry	110
IV. COMPLIANCE RESPONSIBILITIES	132
A. Duty to Comply	132
B. Penalties for Violations of Permit Conditions	132
C. Need to Halt or Reduce Activity not a Defense.....	132
D. Duty to Mitigate.....	132
E. Proper Operation and Maintenance.....	132
F. Removed Substances	132
G. Bypass of Treatment Facilities	132
H. Upset Conditions	154
I. Toxic Pollutants.....	154
J. Changes in Discharge of Toxic Substances	154
K. Industrial Pretreatment.....	165
V. GENERAL REQUIREMENTS	176
A. Planned Changes.....	176
B. Anticipated Noncompliance.....	176
C. Permit Actions	176
D. Duty to Reapply.....	176
E. Duty to Provide Information	176
F. Other Information.....	176
G. Signatory Requirements.....	176
H. Penalties for Falsification of Reports.....	187
I. Availability of Reports	187
J. Oil and Hazardous Substance Liability.....	187
K. Property Rights	187
L. Severability	187
M. Transfers.....	17
N. State or Federal Laws	1918
O. Water Quality - Reopener Provision.....	1918
Q. Toxicity Limitation - Reopener Provision	1918
VI. DEFINITIONS	19
A. Wastewater	19
B. Biosolids	220

I. DISCHARGE LIMITATIONS AND REPORTING REQUIREMENTS

- A. Description of Discharge Points. The authorization to discharge wastewater provided under this part is limited to those outfalls specifically designated below as discharge locations. Discharges at any location not authorized under a UPDES permit are violations of the *Act* and may be subject to penalties under the *Act*. Knowingly discharging from an unauthorized location or failing to report an unauthorized discharge may be subject to criminal penalties as provided under the *Act*.

<u>Outfall Numbers</u>	<u>Location of Discharge Outfalls</u>
001	Located at latitude 39° 25' 37" north and longitude 110° 21' 1" west. Discharge is from a sanitary wastewater package plant to an unnamed ditch to Lila Canyon Wash.
002	Located at latitude 39° 25' 26.97" north and longitude 110° 20' 55.24" west. Mine water discharge southeast of sedimentation pond to Grassy Wash.
003	Located at latitude 39° 25' 28" north and longitude 110° 20' 53" west. Sedimentation pond discharge to Grassy Wash.

- B. Narrative Standard. It shall be unlawful, and a violation of this permit, for the permittee 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 a bioassay or other tests performed in accordance with standard procedures.

C. Specific Limitations and Self-Monitoring Requirements.

1. Effective immediately and lasting the duration of this permit, the permittee is authorized to discharge from Outfalls 001, 002, and 003 as described above. Such discharges shall be limited and monitored by the permittee as specified below:

OUTFALL 001

Parameter, Units	Effluent Limitations *a				
	Maximum Monthly Avg	Minimum Monthly Avg	Maximum Weekly Avg	Daily Minimum	Daily Maximum
Total flow, MGD, *b	0.004375	--	--	--	0.00875
BOD ₅ , mg/L	25	--	35	--	--
BOD ₅ Min. % Removal, *c	85	--	--	--	--
TSS, mg/L	25	--	35	--	--
TSS Min. % Removal *c	85	--	--	--	--
E-Coli, No./100mL	126	--	158	--	--
Ammonia (NH ₃ -N), mg/L:					
Summer (July – Sept.)	4.1	--	--	--	8.4
Fall (Oct. – Dec.)	5.1	--	--	--	8.4
Winter (Jan. – March)	5.8	--	--	--	8.4
Spring (April – June)	5.1	--	--	--	8.4
TDS, mg/L, *d	Report	--	--	--	1500
TDS, tons/day, *d	Report	--	--	--	--
Oil & Grease, mg/L, *e	--	--	--	--	10
DO, mg/L	--	5.0	--	3.0	--
pH, Standard Units (SU)	--	--	--	6.5	9

MGD - million gallons per day;

mg/L - milligrams per liter

OUTFALL 001

Self-Monitoring and Reporting Requirements *a			
Parameter	Frequency	Sample Type	Units
Total Flow, *b	Continuous	Recorder/Measured	MGD
BOD ₅ , Influent, *c	Monthly	Composite/Grab	mg/L
Effluent	Monthly	Composite/Grab	mg/L
TSS, Influent, *c	Monthly	Composite/Grab	mg/L
Effluent	Monthly	Composite/Grab	mg/L
E. Coli	Monthly	Grab	No./100mL
pH	Monthly	Grab	SU
TDS, *d	Monthly	Grab	mg/L & tons/day
DO	Monthly	Grab	mg/L
Ammonia (NH ₃ -N)	Monthly	Composite/Grab	mg/L
Oil and Grease, *e	Monthly	Visual/Grab	mg/L

There shall be no visible sheen or floating solids or visible foam in other than trace amounts upon any discharges and there shall be no discharge of any sanitary wastes at any time.

OUTFALLS 002 & 003 (Unless stated otherwise)

Parameter, Units	Effluent Limitations *a			
	Maximum Monthly Average	Minimum Monthly Average	Daily Minimum	Daily Maximum
Total Effluent Flow, MGD, *b	3.0	--	--	Report
Total Iron, mg/L	--	--	--	1.0
Total Suspended Solids (TSS), mg/L	--	--	--	70
Total Dissolved Solids (TDS), mg/L, *d	Report	--	--	3000
Total Dissolved Solids (TDS), tons/day, *d	Report	--	--	--
Dissolved Oxygen, mg/L	--	5.0	3.0	--
pH, Standard Units	--	--	6.5	9.0
Oil & Grease, mg/L, *e	--	--	--	10
Turbidity, NTU, *f	--	--	--	Report
Total Recoverable Metals, mg/L (002 only), *g	--	--	--	Report

MGD - million gallons per day;

mg/L - milligrams per liter

OUTFALLS 002 & 003 (Unless stated otherwise)

Self-Monitoring and Reporting Requirements *a			
Parameter	Frequency	Sample Type	Units
Total Flow, *b	Continuous/Monthly	Recorder/Measured	MGD
Total Iron	Monthly	Grab	mg/L
TSS	Monthly	Grab	mg/L
TDS, *d	Monthly	Grab	mg/L & tons/day
pH	Twice Monthly	Grab	SU
Oil & Grease, *e	Monthly Monthly	Grab Visual	mg/L, Yes/No
Turbidity, *f	Twice Monthly	Grab	NTU
Dissolved Oxygen	Twice Monthly	Grab	mg/L
Total Recoverable Metals (Outfall 002 only), *g	Quarterly	Grab	mg/L

There shall be no visible sheen or floating solids or visible foam in other than trace amounts upon any discharges and there shall be no discharge of any sanitary wastes at any time.

- *a See Permit Definitions, *Part VI* for definition of terms.
- *b If the rate of discharge is controlled, such as from intermittent discharging outfalls, the rate and duration of discharge shall be reported. Flow measurements of effluent volumes from all outfalls shall be made in such a manner that the permittee can affirmatively demonstrate that representative values are being obtained. Outfall 002 only shall have a monthly maximum average flow limitation of 3.0 MGD and shall be continuously measured.
- *c In addition to monitoring the final discharge, influent samples shall be taken and analyzed for this constituent at the same frequency as required for this constituent in the discharge.
- *d No tons per day loading limit will be applied if the concentration of TDS from each outfall is equal to or less than 500 mg/L as a thirty-day average. However, if the 30-day average concentration exceeds 500 mg/L, then the permittee cannot discharge more than 1 ton per day as a sum from all discharge points. Upon previous determinations by the Director, if the permittee is not able to meet the 500 mg/L 30-day average or the 1 ton per day loading limit, then the permittee is required to continue to participate in and/or fund a salinity offset project to include the TDS offset credits as appropriate.

The salinity-offset project shall include TDS credits on a ton-for-ton basis for which the permittee is over the 1 ton per day loading limit. The tonnage reduction from the offset project must be calculated by a method similar to one used by the NRCS, Colorado River Basin Salinity Control Forum, and/or other applicable agency.

A monitoring and adjustment plan to track the TDS credits shall continue to be submitted to the Director for each monthly monitoring period during the life of this permit. Any changes to the monitoring and adjustment plan must be approved by the Director and upon approval shall be appended to this permit.

- *e Oil & grease monitoring for Outfall 001 shall initially be a visual inspection performed at least once per month. If any oil and /or grease sheens are observed visually, then a sample of the effluent must be taken and this sample shall not exceed 10 mg/L. Monthly oil & grease sample analyses shall be conducted at outfalls 002 & 003 when discharging. In addition to monthly sampling for oil and grease, a visual inspection for oil and grease shall be performed at least once per month at outfalls 002 & 003. If any oil and/or grease sheens are observed visually, or there is any other reason to believe that oil and/or grease may be present in the discharge, then a sample of the effluent must be immediately taken and this sample shall not exceed 10 mg/L.
- *f Turbidity monitoring shall be conducted twice monthly whenever possible upon discharging from Outfalls 002 & 003 to ensure that there is not an increase of more than 10 NTU over the receiving waters, if applicable.
- *g Total Recoverable Metals quarterly monitoring required for mine water discharges from Outfall 002 only and includes; aluminum, arsenic, cadmium, chromium, copper, iron, lead, mercury, nickel, selenium, silver, and zinc.

2. Samples taken in compliance with the monitoring requirements specified above shall be taken at the following locations: at all outfalls prior to mixing with the receiving water.
3. Any overflow, increase in volume of a discharge or discharge from a bypass system caused by precipitation within a 24-hour period less than or equal to the 10-year, 24-hour precipitation event (or snowmelt of equivalent volume) at surface water runoff pond outfalls only may comply with the following limitation instead of the otherwise applicable limitation (for TSS) contained in Part I.C:

<u>Effluent Characteristic</u>	<u>Daily Maximum</u>
Settleable Solids	0.5 mL/L

In addition to the monitoring requirements specified under Part I.C, all effluent samples collected during storm water discharge events may also be analyzed for settleable solids. Such analyses shall be conducted by grab samples.

4. The operator shall have the burden of proof that the discharge or increase in discharge was caused by the applicable precipitation event described in Part I.C.3. The alternate limitations in Parts I.C.3 shall not apply to treatment systems that treat underground mine water only.
- D. Reporting of Monitoring Results. Monitoring results obtained during the previous month shall be summarized for each month and reported on a Discharge Monitoring Report Form (EPA No. 3320-1)* or by NetDMR, post-marked or entered into NetDMR no later than the 28th day of the month following the completed reporting period. If no discharge occurs during the reporting period, “no discharge” shall be reported. Legible copies of these, and all other reports including whole effluent toxicity (WET) test reports required herein, shall be signed and certified in accordance with the requirements of *Signatory Requirements (see Part V.G)*, and submitted by NetDMR, or to the Division of Water Quality at the following address:

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

E. Storm Water Requirements.

1. Industrial Storm Water Permit. Based on the type of industrial activities occurring at the facility, the permittee is required to maintain separate coverage or an appropriate exclusion under the Multi-Sector General Permit (MSGP) for Storm Water Discharges Associated with Industrial Activities (UTR000000). If the facility is not already covered, it has 30 days from when this permit is issued to submit the appropriate Notice of Intent (NOI) for the MSGP or exclusion documentation.
2. Construction Storm Water Permit. Any non-mining construction at the facility that disturbs an acre or more of land, including less than an acre if it is part of a common plan of development or sale, is required to obtain coverage under the UPDES Construction

* Starting January 1, 2017 monitoring results must be submitted using NetDMR unless the permittee has successfully petitioned for an exception.

General Storm Water Permit (UTRC00000). Non-mining construction is not related to the excavation of material for the purposes of mining, and typically includes construction of parking lots, buildings, paved or permanent roads, utilities, etc. Permit coverage must be obtained prior to land disturbance. If the site qualifies, a Low Erosivity Waiver (LEW) Certification may be submitted instead of permit coverage.

PND DRAFT

II. BIOSOLIDS REQUIREMENTS

The State of Utah has adopted the 40 CFR 503 federal regulations for the disposal of sewage sludge (biosolids) by reference. The sanitary treatment system at Lila Canyon is a small package plant, known as an Orenco system. Sewage will be sent from the bath house to a septic tank (approx. 18000 gallons) where most of the solids will be retained and the liquid pumped to the Orenco System. Solids will have to be disposed of as required by the 503 requirements. The Lila Canyon Mine plans to have the septic tank pumped out when needed and the solids disposed of as septage at a treatment plant for disposal.

PND DRAFT

III. MONITORING, RECORDING & GENERAL REPORTING REQUIREMENTS

- A. Representative Sampling. Samples taken in compliance with the monitoring requirements established under *Part I* shall be collected from the effluent stream prior to discharge into the receiving waters. Samples and measurements shall be representative of the volume and nature of the monitored discharge.
- B. Monitoring Procedures. Monitoring must be conducted according to test procedures approved under *Utah Administrative Code ("UAC") R317-2-10 and 40CFR Part 503*, 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. 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.
- E. Additional Monitoring by the Permittee. If the permittee monitors any parameter more frequently than required by this permit, using test procedures approved under *UAC R317-2-10 and 40 CFR 503* or as specified in this permit, the results of this monitoring shall be included in the calculation and reporting of the data submitted in the DMR. Such increased frequency shall also be indicated. Only those parameters required by the permit need to be reported.
- F. 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.
- G. Retention of Records. The permittee shall retain records of all monitoring information, including all calibration and maintenance records and all original strip chart recordings for continuous monitoring instrumentation, 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 five years from the date of the sample, measurement, report or application. This period may be extended by request of the Director at any time. A copy of this UPDES permit must be maintained on site during the duration of activity at the permitted location
- H. Twenty-four Hour Notice of Noncompliance Reporting.
1. The permittee shall (orally) report any noncompliance including transportation accidents, spills, and uncontrolled runoff from biosolids transfer or land application sites which may seriously endanger health or environment, as soon as possible, but no later than twenty-four (24) hours from the time the permittee first became aware of circumstances. The report shall be made to the Division of Water Quality, (801) 536-4300, or 24-hour answering service (801) 536-4123.

2. The following occurrences of noncompliance shall be reported by telephone (801) 536-4300 as soon as possible but no later than 24 hours from the time the permittee becomes aware of the circumstances:
 - a. Any noncompliance which may endanger health or the environment;
 - b. Any unanticipated bypass, which exceeds any effluent limitation in the permit (See *Part III.G, Bypass of Treatment Facilities.*);
 - c. Any upset which exceeds any effluent limitation in the permit (See *Part III.H, Upset Conditions.*); or,
 - d. Violation of a daily discharge limitation for any of the pollutants listed in the permit.
3. A written submission shall also be provided 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;
 - d. Steps taken or planned to reduce, eliminate, and prevent reoccurrence of the noncompliance; and,
 - e. Steps taken, if any, to mitigate the adverse impacts on the environment and human health during the noncompliance period.
4. The Director may waive the written report on a case-by-case basis if the oral report has been received within 24 hours by the Division of Water Quality, (801) 536-4300.
5. Reports shall be submitted to the addresses in *Part I.D, Reporting of Monitoring Results.*
- I. 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 I.D* are submitted. The reports shall contain the information listed in *Part II.H.3*
- J. Inspection and Entry The permittee shall allow the 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, including but

not limited to, biosolids treatment, collection, storage facilities or area, transport vehicles and containers, and land application sites;

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, including, but not limited to, any ground or surface waters at the permitted sites; and,
5. The permittee shall make the necessary arrangements with the landowner or leaseholder to obtain permission or clearance so that the Director, or authorized representative, upon the presentation of credentials and other documents as may be required by law will be permitted to enter without delay for the purposes of performing their responsibilities.

P/N D R A F T

IV. 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 Director of any planned changes in the permitted facility or activity, which 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 or the Act is subject to a fine not exceeding \$25,000 per day of violation. Any person convicted under *UCA 19-5-115(2)* a second time shall be punished by a fine not exceeding \$50,000 per day. Except as provided at *Part III.G, Bypass of Treatment Facilities* and *Part III.H, Upset Conditions*, 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, which has a reasonable likelihood of adversely affecting human health or the environment. The permittee shall also take all reasonable steps to minimize or prevent any land application in violation of this permit.
- 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, which are installed by a permittee only when the operation is necessary to achieve compliance with the conditions of the permit.
- F. Removed Substances. Collected screening, grit, solids, sludge, or other pollutants removed in the course of treatment shall be disposed in such a manner so as to prevent any pollutant from entering any waters of the state or creating a health hazard.
- G. Bypass of Treatment Facilities.
1. Bypass Not Exceeding Limitations. The permittee may allow any bypass to occur which does not cause effluent limitations to be exceeded, but only if it also is for essential maintenance to assure efficient operation. These bypasses are not subject to paragraph 2 and 3 of this section.
 2. Prohibition of Bypass.
 - a. Bypass is prohibited, and the Director may take enforcement action against a permittee for bypass, unless:

PART IV
UPDES PERMIT NO. UT0026018

- (1) Bypass was unavoidable to prevent loss of human life, personal injury, or severe property damage;
 - (2) There were no feasible alternatives to bypass, such as the use of auxiliary treatment facilities, retention of untreated wastes, or maintenance during normal periods of equipment downtime. This condition is not satisfied if adequate backup equipment should have been installed in the exercise of reasonable engineering judgement to prevent a bypass which occurred during normal periods of equipment downtime or preventive maintenance, and
 - (3) The permittee submitted notices as required under *section III.G.3*.
- b. The Director may approve an anticipated bypass, after considering its adverse effects, if the Director determines that it will meet the three conditions listed in *sections III.G.2.a (1), (2) and (3)*.
3. Notice.
- a. *Anticipated bypass.* Except as provided above in *section III.G.2* and below in *section III.G.3.b*, if the permittee knows in advance of the need for a bypass, it shall submit prior notice, at least ninety days before the date of bypass. The prior notice shall include the following unless otherwise waived by the Director:
 - (1) Evaluation of alternative to bypass, including cost-benefit analysis containing an assessment of anticipated resource damages;
 - (2) A specific bypass plan describing the work to be performed including scheduled dates and times. The permittee must notify the Director in advance of any changes to the bypass schedule;
 - (3) Description of specific measures to be taken to minimize environmental and public health impacts;
 - (4) A notification plan sufficient to alert all downstream users, the public and others reasonably expected to be impacted by the bypass;
 - (5) A water quality assessment plan to include sufficient monitoring of the receiving water before, during and following the bypass to enable evaluation of public health risks and environmental impacts; and,
 - (6) Any additional information requested by the Director.
 - b. *Emergency Bypass.* Where ninety days advance notice is not possible, the permittee must notify the Director, and the Director of the Department of Natural Resources, as soon as it becomes aware of the need to bypass and provide to the Director the information in *section III.G.3.a.(1) through (6)* to the extent practicable.
 - c. *Unanticipated bypass.* The permittee shall submit notice of an unanticipated bypass to the Director as required under *Part II.H*, Twenty Four Hour Reporting. The permittee shall also immediately notify the Director of the Department of Natural

PART IV
UPDES PERMIT NO. UT0026018

Resources, the public and downstream users and shall implement measures to minimize impacts to public health and environment to the extent practicable.

H. Upset Conditions.

1. Effect of an upset. An upset constitutes an affirmative defense to an action brought for noncompliance with technology based permit effluent limitations if the requirements of paragraph 2 of this section are met. Director's administrative determination regarding a claim of upset cannot be judiciously challenged by the permittee until such time as an action is initiated for noncompliance.
2. Conditions necessary for a demonstration of upset. A permittee who wishes to establish the affirmative defense of upset shall demonstrate, through properly signed, contemporaneous operating logs, or other relevant evidence that:
 - a. An upset occurred and that the permittee can identify the cause(s) of the upset;
 - b. The permitted facility was at the time being properly operated;
 - c. The permittee submitted notice of the upset as required under *Part II.H, Twenty-four Hour Notice of Noncompliance Reporting*; and,
 - d. The permittee complied with any remedial measures required under *Part III.D, Duty to Mitigate*.
3. Burden of proof. In any enforcement proceeding, the permittee seeking to establish the occurrence of an upset has the burden of proof.

I. Toxic Pollutants. The permittee shall comply with effluent standards or prohibitions established under Section 307(a) of *The Water Quality Act of 1987* for toxic pollutants within the time provided in the regulations that establish those standards or prohibitions, even if the permit has not yet been modified to incorporate the requirement.

J. Changes in Discharge of Toxic Substances. Notification shall be provided to the Director as soon as the permittee knows of, or has reason to believe:

1. That any activity has occurred or will occur which would result in the discharge, on a routine or frequent basis, of any toxic pollutant which is not limited in the permit, if that discharge will exceed the highest of the following "notification levels":
 - a. One hundred micrograms per liter (100 ug/L);
 - b. Two hundred micrograms per liter (200 ug/L) for acrolein and acrylonitrile; five hundred micrograms per liter (500 ug/L) for 2,4-dinitrophenol and for 2-methyl-4, 6-dinitrophenol; and one milligram per liter (1 mg/L) for antimony;
 - c. Five (5) times the maximum concentration value reported for that pollutant in the permit application in accordance with *UAC R317-8-3.4(7)* or (10); or,
 - d. The level established by the Director in accordance with *UAC R317-8-4.2(6)*.

PART IV
UPDES PERMIT NO. UT0026018

2. That any activity has occurred or will occur which would result in any discharge, on a non-routine or infrequent basis, of a toxic pollutant which is not limited in the permit, if that discharge will exceed the highest of the following "notification levels":
 - a. Five hundred micrograms per liter (500 ug/L);
 - b. One milligram per liter (1 mg/L) for antimony;
 - c. Ten (10) times the maximum concentration value reported for that pollutant in the permit application in accordance with *UAC R317-8-3.4(9)*; or,
 - d. The level established by the Director in accordance with *UAC R317-8-4.2(6)*.

K. Industrial Pretreatment Requirements.

1. Definition

POTW or publicly owned treatment works means a treatment works as defined by section 212 of the Act, which is owned by a State or municipality (as defined by section 502(4) of the Act). This definition includes any devices and systems used in the storage, treatment, recycling and reclamation of municipal sewage or industrial wastes of a liquid nature. It also includes sewers, pipes and other conveyances only if they convey wastewater to a POTW Treatment Plant. The term also means the municipality as defined in section 502(4) of the Act, which has jurisdiction over the Indirect Discharges to and the discharges from such a treatment works.

2. Discharges to a POTW

Any process wastewater that the facility may discharge to the sanitary sewer, either as direct discharge or as a hauled waste, is subject to federal, state and local pretreatment regulations. Pursuant to Section 307 of the Clean Water Act, the permittee shall comply with all applicable Federal General Pretreatment Regulations promulgated, found in *40 CFR Part 403*, the State Pretreatment Requirements found in *UAC R317-8-8*, and any specific local discharge limitations developed by the Publicly Owned Treatment Works (POTW) accepting the waste.

3. Hazardous Waste Requirements.

In accordance with *40 CFR Part 403.12(p)(1)*, the permittee must notify the POTW, the EPA Regional Waste Management Director, and the State hazardous waste authorities, in writing, if they discharge any substance into a POTW which if otherwise disposed would be considered a hazardous waste under *40 CFR Part 261*. This notification must include the name of the hazardous waste, the EPA hazardous waste number, and the type of discharge (continuous or batch).

4. Hauled Hazardous Waste.

Hauled hazardous waste shall not be discharged to a POTW without notification to the Division of Water Quality.

V. GENERAL REQUIREMENTS

- A. Planned Changes. The permittee shall give notice to the Director as soon as possible of any planned physical alterations or additions to the permitted facility. Notice is required only when the alteration or addition could significantly change the nature or increase the quantity of parameters discharged or pollutant sold or given away. This notification applies to pollutants, which are not subject to effluent limitations in the permit. In addition, if there are any planned substantial changes to the permittee's existing sludge facilities or their manner of operation or to current sludge management practices of storage and disposal, the permittee shall give notice to the Director of any planned changes at least 30 days prior to their implementation.
- B. Anticipated Noncompliance. The permittee shall give advance notice to the Director of any planned changes in the permitted facility or activity, which 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 shall apply for and obtain a new permit. The application shall be submitted at least 180 days before the expiration date of this permit.
- E. Duty to Provide Information. The permittee shall furnish to the Director, within a reasonable time, any information which the 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 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 Director, it shall promptly submit such facts or information.
- G. Signatory Requirements. All applications, reports or information submitted to the Director shall be signed and certified.
1. All permit applications shall be signed by either a principal executive officer or ranking elected official.
 2. All reports required by the permit and other information requested by the 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 Director, and,
 - b. The authorization specifies either an individual or a position having responsibility for the overall operation of the regulated facility, such as the position of plant manager,

PART V
UPDES PERMIT NO. UT0026018

superintendent, position of equivalent responsibility, or an individual or position having overall responsibility for environmental matters. A duly authorized representative may thus be either a named individual or any individual occupying a named position.

3. Changes to authorization. If an authorization under *paragraph 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 *paragraph IV.G.2* must be submitted to the 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 \$10,000.00 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 under *UAC R317-8-3.2*, all reports prepared in accordance with the terms of this permit shall be available for public inspection at the office of Director. As required by the *Act*, permit applications, permits and effluent data shall not be considered confidential.

J. Oil and Hazardous Substance Liability. Nothing in this permit shall be construed to preclude the permittee of any legal action or relieve the permittee from any responsibilities, liabilities, or penalties to which the permittee is or may be subject under the *Act*.

K. 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.

L. Severability. The provisions of this permit are severable, and if any provisions 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.

M. Transfers. This permit may be automatically transferred to a new permittee if:

PART V
UPDES PERMIT NO. UT0026018

1. The current permittee notifies the Director at least 20 days in advance of the proposed transfer date;
 2. The notice includes a written agreement between the existing and new permittee's containing a specific date for transfer of permit responsibility, coverage, and liability between them; and,
 3. The 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.
- N. State or Federal Laws. Nothing in this permit shall be construed to preclude the institution of any legal action or relieve the permittee from any responsibilities, liabilities, or penalties established pursuant to any applicable state law or regulation under authority preserved by *UCA 19-5-117* and *Section 510* of the *Act* or any applicable Federal or State transportation regulations, such as but not limited to the Department of Transportation regulations.
- O. Water Quality - Reopener Provision. This permit may be reopened and modified (following proper administrative procedures) to include the appropriate effluent limitations and compliance schedule, if necessary, if one or more of the following events occurs:
1. Water Quality Standards for the receiving water(s) to which the permittee discharges are modified in such a manner as to require different effluent limits than contained in this permit.
 2. A final wasteload allocation is developed and approved by the State and/or EPA for incorporation in this permit.
 3. Revisions to the current CWA § 208 area wide treatment management plans or promulgations/revisions to TMDLs (40 CFR 130.7) approved by the EPA and adopted by DWQ which calls for different effluent limitations than contained in this permit.
- P. Toxicity Limitation - Reopener Provision. This permit may be reopened and modified (following proper administrative procedures) to include, whole effluent toxicity (WET) limitations, a compliance date, a compliance schedule, a change in the whole effluent toxicity (biomonitoring) protocol, additional or modified numerical limitations, or any other conditions related to the control of toxicants if one or more of the following events occur;
1. Toxicity is detected, as per *Part I.C.* of this permit, during the duration of this permit.
 2. The TRE results indicate that the toxicant(s) represent pollutant(s) or pollutant parameter(s) that may be controlled with specific numerical limits and the Director concludes that numerical controls are appropriate.
 3. Following the implementation of numerical control(s) of toxicant(s), the Director agrees that a modified biomonitoring protocol is necessary to compensate for those toxicants that are controlled numerically.

4. The TRE reveals other unique conditions or characteristics, which in the opinion of the permit issuing authority justify the incorporation of unanticipated special conditions in the permit.

P/N DRAFT

VI. DEFINITIONS

A. Wastewater.

1. The "7-day (and weekly) average" is the arithmetic average of all samples collected during a consecutive 7-day period or calendar week, whichever is applicable. The 7-day and weekly averages are applicable only to those effluent characteristics for which there are 7-day average effluent limitations. The calendar week, which begins on Sunday and ends on Saturday, shall be used for purposes of reporting self-monitoring data on discharge monitoring report forms. Weekly averages shall be calculated for all calendar weeks with Saturdays in the month. If a calendar week overlaps two months (i.e., the Sunday is in one month and the Saturday in the following month), the weekly average calculated for that calendar week shall be included in the data for the month that contains Saturday.
2. The "30-day (and monthly) average" is the arithmetic average of all samples collected during a consecutive 30-day period or calendar month, whichever is applicable. The calendar month shall be used for purposes of reporting self-monitoring data on discharge monitoring report forms.
3. "Act," means the *Utah Water Quality Act*.
4. "Bypass," means the diversion of waste streams from any portion of a treatment facility.
5. "Composite Samples" shall be flow proportioned. The composite sample shall, as a minimum, contain at least four (4) samples collected over the compositing period. Unless otherwise specified, the time between the collection of the first sample and the last sample shall not be less than six (6) hours nor more than 24 hours. Acceptable methods for preparation of composite samples are as follows:
 - a. Constant time interval between samples, sample volume proportional to flow rate at time of sampling;
 - b. Constant time interval between samples, sample volume proportional to total flow (volume) since last sample. For the first sample, the flow rate at the time the sample was collected may be used;
 - c. Constant sample volume, time interval between samples proportional to flow (i.e., sample taken every "X" gallons of flow); and,
 - d. Continuous sample volume, with sample collection rate proportional to flow rate.
6. "CWA," means *The Federal Water Pollution Control Act*, as amended, by *The Clean Water Act of 1987*.
7. "Daily Maximum" (Daily Max.) is the maximum value allowable in any single sample or instantaneous measurement.
8. "Daily Minimum" ("Daily Min.") is the minimum value allowable in any single sample or instantaneous measurement.

9. "EPA," means the United States Environmental Protection Agency.
10. "Director," means Director of the Division of Water Quality.
11. A "grab" sample, for monitoring requirements, is defined as a single "dip and take" sample collected at a representative point in the discharge stream.
12. An "instantaneous" measurement, for monitoring requirements, is defined as a single reading, observation, or measurement.
13. "Severe Property Damage," means substantial physical damage to property, damage to the treatment facilities which causes them to become inoperable, or substantial and permanent loss of natural resources which can reasonably be expected to occur in the absence of a bypass. Severe property damage does not mean economic loss caused by delays in production.
14. "Upset," means an exceptional incident in which there is unintentional and temporary noncompliance with technology-based permit effluent limitations because of factors beyond the reasonable control of the permittee. An upset does not include noncompliance to the extent caused by operational error, improperly designed treatment facilities, inadequate treatment facilities, lack of preventative maintenance, or careless or improper operation.

B. Biosolids.

1. "Biosolids," means any material or material derived from sewage solids that have been biologically treated.
2. "Dry Weight-Basis," means 100 percent solids (i.e. zero percent moisture).
3. "Land Application" is the spraying or spreading of biosolids onto the land surface; the injection of biosolids below the land surface; or the incorporation of biosolids into the land so that the biosolids can either condition the soil or fertilize crops or vegetation grown in the soil. Land application includes distribution and marketing (i.e. the selling or giving away of the biosolids).
4. "Pathogen," means an organism that is capable of producing an infection or disease in a susceptible host.
5. "Pollutant" for the purposes of this permit is an organic substance, an inorganic substance, a combination of organic and inorganic substances, or pathogenic organisms that after discharge and upon exposure, ingestion, inhalation, or assimilation into an organism either directly from the environment or indirectly by ingestion through the food-chain, could on the basis of information available to the Administrator of EPA, cause death, disease, behavioral abnormalities, cancer, genetic mutations, physiological malfunctions (including malfunction in reproduction), or physical deformations in either organisms or offspring of the organisms.

PART VI
UPDES PERMIT NO. UT0026018

6. "Runoff" is rainwater, leachate, or other liquid that drains over any part of a land surface and runs off the land surface.
7. "Similar Container" is either an open or closed receptacle. This includes, but is not limited to, a bucket, a box, a carton, and a vehicle or trailer with a load capacity of one metric ton or less.
8. "Total Solids" are the materials in the biosolids that remain as a residue if the biosolids are dried at 103° or 105° Celsius.
9. "Treatment Works" are either Federally owned, publicly owned, or privately owned devices or systems used to treat (including recycling and reclamation) either domestic sewage or a combination of domestic sewage and industrial waste or liquid manure.
10. "Vector Attraction" is the characteristic of biosolids that attracts rodents, flies, mosquitos or other organisms capable of transporting infectious agents.
11. "Animals" for the purpose of this permit are domestic livestock.
12. "Annual Whole Sludge Application Rate" is the amount of sewage sludge (dry-weight basis) that can be applied to a unit area of land during a cropping cycle.
13. "Agronomic Rate" is the whole sludge application rate (dry-weight basis) designed to: (1) provide the amount of nitrogen needed by the crop or vegetation grown on the land; and (2) minimize the amount of nitrogen in the sewage sludge that passes below the root zone of the crop or vegetation grown on the land to the ground water.
14. "Annual Pollutant Loading Rate" is the maximum amount of a pollutant (dry-weight basis) that can be applied to a unit area of land during a 365-day period.
15. "Application Site or Land Application Site" means all contiguous areas of a users' property intended for sludge application.
16. "Cumulative Pollutant Loading Rate" is the maximum amount of an inorganic pollutant (dry-weight basis) that can be applied to a unit area of land.
17. "Grit and Screenings" are sand, gravel, cinders, other materials with a high specific gravity and relatively large materials such as rags generated during preliminary treatment of domestic sewage at a treatment works and shall be disposed of according to 40 CFR 258.
18. "High Potential for Public Contact Site" is land with a high potential for contact by the public. This includes, but is not limited to, public parks, ball fields, cemeteries, plant nurseries, turf farms, and golf courses.
19. "Low Potential for Public Contact Site" is the land with a low potential for contact by the public. This includes, but is not limited to, farms, ranches, reclamation areas, and other lands which are private lands, restricted public lands, or lands which are not generally accessible to or used by the public.

20. "Monthly Average" is the arithmetic mean of all measurements taken during the month.
21. "Volatile Solids" is the amount of the total solids in sewage sludge lost when the sludge is combusted at 550 degrees Celsius for 15-20 minutes in the presence of excess air.

PND DRAFT