

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

§401 Water Quality Certification No. DWQ-2020-06002

Pursuant to §401 of the Federal Clean Water Act(CWA), the Utah Department of Environmental Quality (DEQ), Division of Water Quality (DWQ) certifies that the applicant has provided reasonable assurance that any discharges associated with the proposed project will not violate surface water quality standards or cause additional degradation in surface water not presently meeting water quality standards. In accordance with Section 401(a)(1) of the CWA [33 U.S.C. Sec. 1341(a)(1)], DWQ hereby issues this §401 Water Quality Certification provided any listed conditions are met and included in the corresponding U.S. Army Corps of Engineers (USACE) Section 404 Permit, Rivers and Harbors Act §9 and §10, or Federal Energy Regulatory Commission (FERC) License.

Applicant: Utah Division of Wildlife Resources
Mr. Alan Ward
777 SR 319 Box 7
Heber City, UT 84032

Project: The applicant is proposing to build a new parking lot with a boat ramp near Chicken Creek East (CCE). The boat ramp will allow anglers with medium sized and smaller boats to access Jake's Bay and the rest of Strawberry Reservoir. The parking lot/boat ramp will have a 1.8 acre footprint. Along with the parking lot, a restroom will be constructed. The applicant plans to improve the gravel access road and plans to pave it in the future, to allow year round access to the parking area. The new CCE site will likely be managed under the Recreation Enhancement Act (REA). Chicken Creek East (stream) in a small perennial stream with approximately 1 CFS baseflow. The stream has been channelized in the past and the culvert under the access road has failed resulting in the stream flowing along the road until it reaches the reservoir. To increase stream function and allow for adfluvial spawning by reservoir fishes, this stream will be restored to return flood plain connectivity, add meanders, and re-vegetate.

Location: This project is located on Strawberry Reservoirs' north end along US Hwy 40. The project location can be found at approximately latitude: 40.23567, longitude: -111.13700.

Watercourse(s): Strawberry Reservoir and Chicken Creek East.

Effective Date: Month, Day, Year

Erica Brown Gaddis, PhD
Director, Division Water Quality

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Appendix B: Project Impact Map(s)

I. Background

A. Other Applicable Permits

1. USACE 404 Permit (LOP) : SPK-2020-00159
2. Stream Alteration Permit: 19-43-0004

B. Project Description/Purpose

The applicant is proposing to build a new parking lot with a boat ramp near Chicken Creek East (CCE). The boat ramp will allow anglers with medium sized and smaller boats to access Jake's Bay and then the rest of Strawberry Reservoir. The parking lot/boat ramp will have a 1.8 acre footprint. Along with the parking lot, a restroom will be constructed. The applicant plans to improve the gravel access road and plans to pave it in the future, to allow year round access to the parking area. The new CCE site will likely be managed under the Recreation Enhancement Act (REA). Chicken Creek East (stream) in a small perennial stream with approximately 1 CFS baseflow. The stream has been channelized in the past and the culvert under the access road has failed resulting in the stream flowing along the road until it reaches the reservoir. To increase stream function and allow for adfluvial spawning by reservoir fishes this stream will be restored to return flood plain connectivity, add meanders, and re-vegetate.

The applicant identified purpose and need for the project is to provide boating access to the north end of Strawberry Reservoir from Jake's Bay near Chicken Creek East. Currently there are no boat launching facilities on the Northern end of the reservoir and there are underutilized day use facilities. This action would remove two existing day use sites; combine their footprint into a more functional day use area that includes a boat launching ramp and a comfort facility.

II. Certification Conditions

A. Project Specific Conditions

1. Best Management Practices (BMPs)/ Requested Actions

- a. In channel/reservoir work 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 removed at the completion of the work. Where diversion is not practical, UDWR should consider utilizing a turbidity curtain or other means to prevent impacts to water quality.
- b. Any excavated or dredged material stored onsite must be protected or stored in a way as to prevent discharge into the stream and reservoir onsite.
- c. Construction machinery used should be clean to prevent the possible transfer of Aquatic Invasive Species.
- d. The re-alignment of Chicken Creek should resemble natural streams in the area in relation to sinuosity and stream substrate to the maximum extent practicable. Focus should be given on allowing for fish migration and spawning, as well as, establishment of a riparian zone consisting of native vegetation.

B. General Conditions

1. Good Housekeeping

- a. Applicant and their subcontractors shall ensure that all workers involved are continuously aware of the water quality protection measures before the start and during the construction period.
- b. Retain a copy of this §401 Certification and its affiliated USACE 404 Permit onsite.

2. Stormwater and BMPs

- a. Water quality standards in associated water resources could be violated unless appropriate Best Management Practices (BMPs) are incorporated to minimize the erosion-sediment and nutrient load to any adjacent waters during project construction. The applicant shall not use any fill material which may leach organic chemicals (e.g. discarded asphalt), noxious weeds/seeds, or nutrients (e.g., phosphate rock) into waters of the State.
- b. Construction activities that disturb one acre or more, or are part of a common plan of development, are required to obtain coverage under the Utah Pollutant Discharge Elimination System (UPDES) Stormwater General Permit for Construction Activities (Permit No. UTR300000¹). The permit requires the development of a Storm Water

¹ Link: <https://documents.deq.utah.gov/water-quality/permits/updes/DWQ-2017-003485.pdf>

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 stormwater outfalls/discharges, and information pertaining to any stormwater retention requirements.

- c. Dewatering activities, if necessary during construction, may require coverage under the UPDES General Permit for Construction Dewatering (Permit No. UTG070000²). The permit requires water quality monitoring every two weeks to ensure that the pumped water is meeting permit effluent limitations unless water is contained onsite.
- d. 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 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.
- e. Utah Administrative Code R317-2 requires that the Applicant cannot increase water turbidity by 10 NTUs. If violated, Applicant shall immediately notify the DWQ. A fact sheet describing the Utah Department of Environmental Quality's (DEQ) recommended environmental BMPs for construction sites is located on our web site³.

3. Spills

- a. Refueling equipment and storage of lubricants and fuels will occur at designated staging areas and in state approved containers. The storage and refueling areas will be at least 500 feet from the edge of the nearest waterbody (including wetlands), at least 200 feet from the nearest private water supply well, and at least 100 feet from the nearest municipal water supply well.
- b. Utah Annotated Code 19-5-114 requires that any spill or discharge of oil or other substances which may cause pollution to waters of the State, including wetlands, must be immediately reported to the Utah DEQ Spill Hotline at (801) 536-4123, a 24-hour phone number.

² Link: <https://deq.utah.gov/legacy/permits/water-quality/utah-pollutant-discharge-elimination-system/docs/utg070000.pdf>

³ Link: <https://deq.utah.gov/legacy/businesses/business-assistance/construction/index.htm>

III. Aquatic Resource Impacts

All Waters of the State of Utah (defined in Administrative Code (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 water body. Listed below are the water features within the project area and their associated designated beneficial uses (see UAC R317-2-6):

A. Linear Water Features

1. Chicken Creek

- a. Class 1C: Protected for domestic purposes with prior treatment by treatment processes as required by the Utah Division of Drinking Water.
- b. 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
- c. Class 3A: Protected for cold water species of game fish and other cold water aquatic life, including the necessary aquatic organisms in their food chain.
- d. Class 4: Protected for agricultural uses including irrigation of crops and stock watering.

B. Open Water

1. Strawberry Reservoir

- a. Class 1C: as described above;
- b. Class 2B: as described above;
- c. Class 3A: as described above;
- d. Class 4: as described above.

C. Impairments and TMDL(s)

1. Chicken Creek

Results from the current water quality assessment, as documented in Utah's 2016 Integrated Report, indicate that the water quality of Chicken Creek (a tributary to Strawberry Reservoir) is considered to be impaired (Assessment Category 5). This segment is impaired for pH and Dissolved Oxygen (DO). The pH impairment impacts beneficial use classes 1C (drinking water source), 2B (infrequent primary contact recreation), 3A (cold water aquatic life), and 4 (agricultural uses). The DO impairment impacts beneficial use class 3A (cold water aquatic life). The CWA directs states to prepare a plan to restore water quality to impaired waters, otherwise known as a total maximum daily load (TMDL) study. A TMDL is required for each parameter and water body to define pollutant reduction requirements necessary for the water body to meet water quality standards. At present, no TMDLs have been finalized for Chicken Creek.

2. Strawberry Reservoir

Results from the current water quality assessment, as documented in Utah's 2016 Integrated Report, indicate that the water quality of Strawberry Reservoir is considered to be impaired (Assessment Category 5). This reservoir is impaired for DO and Phosphorus, which impacts beneficial use class 3A (cold water aquatic life). The CWA directs states to prepare a plan to restore water quality to impaired waters, otherwise known as a total maximum daily load (TMDL) study. A TMDL is required for each parameter and water body to define pollutant reduction requirements necessary for the water body to meet water quality standards. A TMDL⁴ had been approved for Strawberry Reservoir to address the DO and Phosphorus Impairment.

⁴ <https://documents.deq.utah.gov/water-quality/watershed-protection/total-maximum-daily-loads/DWQ-2015-006605.pdf>

IV. Antidegradation

Chicken Creek and Strawberry Reservoir are considered Category 1 waters for antidegradation purposes. Category 1 waters in Utah 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*”, as described in UAC R317-2-3.2..

However, an antidegradation level II review will not be required for this project because the water quality effects of the proposed activity are expected to be temporary and limited, which meets the requirements outlined in UAC R317-2-3.5b. The proposed activities will likely only impact the Reservoir during the proposed work, and the impacts should only be related to sediment and turbidity. Overall, the proposed work will likely have a beneficial impact to water quality in the Reservoir, as recreation areas will be condensed to one central location and re-alignment/restoration of Chicken Creek will reduce the amount of sediment discharging to the Reservoir and improve fish passage

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V. Modifications

- A. Without limiting DWQ's discretion to take other actions in accordance with UAC R317-15, and, as applicable, 33 USC 1341, DWQ may modify the Certification to add, delete, or modify the conditions in this Certification as necessary and feasible to address:
1. Adverse or potential adverse project effects on water quality of designated beneficial uses that did not exist or were not reasonably apparent when this certification was issued;
 2. Total Maximum Daily Loads (TMDLs);
 3. Changes in water quality standards;
 4. Any failure of Certification conditions to protect water quality or designated uses when the Certification was issued; or
 5. Any change in the Project or its operations that will adversely affect water quality of designated beneficial uses when this Certification was issued.

VI. Other Information

A. Fees

1. The legislatively-mandated fee for the 2020 fiscal year is \$100.00/hour for review and issuance of the §401 Water Quality Certification. A quarterly invoice will be sent once plans have been approved. Your payment is due within 30 days.

B. Liabilities

1. Applicant must acquire all necessary easements, access authorizations and permits to ensure they are able to implement the project. This §401 Certification does not convey any property rights or exclusive privileges, nor does it authorize access or injury to private property.
2. This §401 Certification does not preclude the applicant'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 applicant from any liability or penalty, should violations to the permit terms and conditions or Federal or State Laws occur.

C. Certification Expiration

1. This Certification expires 5 years from date of issuance. If a longer period of time is needed, the applicant may request an extension. The Director must issue written approval for a Certification Extension.

⁵ Link: <https://documents.deq.utah.gov/admin/2020-fee-schedule.pdf>

VII. Public Notice and Comments

A. Public Notice Dates

1. USACE 404 Permit No. SPK-2020-00247: Letter of Permission (No Public Notice)
2. Utah DEQ Certification No.: DWQ-2020-06001:

B. Public Notice Comments/Response

- 1.

C. Changes Made to the Certification after Public Notice

1. 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.

Appendix A: Project Location Map

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Appendix B: Project Impact Map(s)

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Legend

LAYER

- Project Area of Impact
- OHWM - 7592'

Category

- Perennial - 482'
- Open Water Impacts - 0.71 acres
- Stream Associated Wetlands Impacted - 0.28 acres
- Proposed Stream Restoration - 0.73 acres
- Proposed Wetland Restoration - 0.42 acres

