

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

**Section 401 Water Quality Certification No.**

**Project Proponents:** Richard Mickelsen  
General Manger  
Timpanogos Special Service District  
6400 North 5050 West  
American Fork, Utah, 84003

**Project:** Timpanogos Special Service District (Project Proponent) proposes to expand the Timpanogos Special Service District (TSSD) Wastewater Treatment Facility (Proposed Project). Currently, the wastewater facility services the cities of Alpine, American Fork, Cedar Hills, Eagle Mountain, Highland, Lehi, Pleasant Grove, Saratoga Springs, Vineyard, and part of Draper. The Project Proponent indicates that the Proposed Project is needed to meet the projected population growth. The wastewater facility upgrades are necessary to meet future wastewater treatment demands. The Project Proponent indicates that the current facility capacity is insufficient to meet the region's growth. The Proposed Project would include constructing and operating a new treatment process building to remove phosphorus, a new pump station, a tertiary filtration building, a chemical building, and an ultraviolet facility for disinfection from the final effluent before discharging into Utah Lake. The Proposed Project will impact approximately 3.02 acres of palustrine emergent wetlands previously constructed as compensatory wetland mitigation for expanding the wastewater treatment facility in the 1990s. The Project Proponent proposes to restore and enhance approximately 19.5 acres of existing wetland habitat located at the north end of the project area for the required compensatory mitigation.

**Location:** The proposed project will be located in Utah County at the existing Timpanogos Special Service District Wastewater Treatment Facility, 6400 North 505 West American Fork, UT. The approximate project location is at Latitude 40.340114°, Longitude -111.777161°.

**Watercourse(s):** The proposed project will impact 3.02 acres of palustrine emergent wetlands on the northeast side of Utah Lake.

**USACE Section 404:** SPK-2022-00724

**Effective Date:** Month, Day, Year

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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

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  
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  
PEM – palustrine emergent  
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  
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 Timpanogos Special Service District (TSSD) for the proposed TSSD Facility Plan Package D Project (Project) in American Fork, Utah County, Utah. 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 R317-15-6.1.A.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 October 5, 2023, to discuss the Proposed Project. On December 13, 2023, Dave Epstein with Jacobs Engineering Group submitted a 401 Water Quality Certification Application for the Proposed Project on behalf of the Project Proponent. The DWQ in collaboration with the USACE representatives Hollis Jencks and Jason Gibson established the Reasonable Period of Time to be 6 months from December 13, 2023. DWQ has until June 13, 2024 to grant, deny, or expressly waive certification.

#### **IV. Background**

The Timpanogos Special Service District (Project Proponent) proposes expanding the existing wastewater treatment plant. The Timpanogos Special Service District (TSSD) wastewater treatment facility in Utah County services the cities of Alpine, American Fork, Cedar Hills, Eagle Mountain, Highland, Lehi, Pleasant Grove, Saratoga Springs, Vineyard, and part of Draper. The Project Proponent proposes that the treatment processes require TSSD Facility Plan Package B (the Project) necessary to improve the wastewater treatment process before discharge into Utah Lake. The Project Proponent indicated that the Project was necessary for the treatment facility to support the projected population growth of the areas that the facility services and safely treat and discharge the wastewater effluent.

The Project Proponent proposes constructing a new treatment process for removing phosphorous from the effluent before discharging into Utah Lake. The phosphorus removal process requires the construction of a new secondary effluent pump station, tertiary filtration, a chemical building, and a new ultraviolet (UV) facility for disinfection before the final discharge for the Project. Based on the hydraulic profile, a cast-in-place sedimentation basin will also be constructed as part of the Project to sit relatively high above the finished grade. The construction of a sedimentation basin is included in the Project to aid in removing phosphorus and increasing the volume of wastewater. The Project Proponent proposes that the outfall structure be enlarged. The berm is modified with structural fill and riprap for increased volume and to dissipate the velocity of the discharge. The wetland excavation totals 16,906 cubic yards (CY) of organic matter and 2,592 CY of soil for the Project. The Project Proponent estimated that the total fill material will be 45,834 CY. Fill material will be placed on the site to make the land grade necessary and provide building foundations. The Project will permanently impact 3.02 acres of palustrine emergent wetlands to support the construction and associated piping required for the Project. The palustrine emergent wetlands that the Proposed Project will permanently impact are wetlands created by the Project Proponent as part of previous Compensatory Mitigation for constructing the existing TSSD wastewater treatment facility. The Compensatory Mitigation Plan for the Proposed Project includes the creation and enhancement of over 19 acres of wetlands located on the north end of the Project area. The mitigation plans for the project are still under review from the USACE for approval.

The wastewater discharge from the facility is permitted by a Utah Department of Environmental Quality DWQ Individual Utah Pollutant Discharge Elimination (UPDES) Permit No. UT0023639. The Project Proponent will ensure that the Individual Permit, including the Biosolids Permit No. UTL023639 is updated if needed to reflect changes due to the Project. The Project has been designed to avoid and minimize wetlands to be filled. The location of the buildings was moved onto non-wetland areas to avoid impacts, but there were some unavoidable permanent impacts with the final project design. All excavated material will be stored upland and disposed in approved locations. To minimize and reduce the impacts of the Project, the Project Proponent indicated that stormwater during construction will be filtered and detained on site. A Storm Water Pollution Prevention Plan (SWPPP) will be prepared and implemented during the construction of the Project. During construction of the Project Best Management Practices (BMPs) such as silt fences will be used on existing and disturbed grades to protect wetlands and Utah Lake from discharges of sediment. The Project Proponent proposes that the Project will not increase the turbidity of Utah Lake to more than 10 NTUs to protect Utah Lakes' designated beneficial uses. The Project contractor will acquire all UPDES Stormwater Permitting necessary for the construction.

#### **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. PEM Wetlands located within the Utah Lake – Lower Provo River Watershed [1]

1. Beneficial Use Designations

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

- 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, 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 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

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

of riparian vegetation. Construction machinery shall be clean to prevent the transfer of aquatic invasive species.

- D. 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 activities shall not cause an increase in water turbidity by more than 15 NTUS in waterbodies classified as beneficial use class 3D. 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, 3A, and 3D beneficial use designations that include at a minimum: baseline (reference) turbidity measurements in each waterbody where instream construction is occurring.
- E. 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<sup>[2]</sup>). 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.
- F. Dewatering activities, if necessary during construction, may require coverage under the UPDES General Permit for Construction Dewatering (Permit No. UTG070000<sup>[3]</sup>) 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.

## 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*

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<sup>211</sup> <https://documents.deq.utah.gov/water-quality/stormwater/construction/DWQ-2020-013890.pdf>

<sup>312</sup> <https://documents.deq.utah.gov/water-quality/permits/updes/DWQ-2019-005143.pdf>

*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. 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 R317-15-6.1.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.

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 R317-15-6.1.A.2., UAC R317-15-6.1.A.3.

- D. 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 R317-15-6.1.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.

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 R317-15-6.1.A.2., UAC R317-15-6.1.A.3.

- E. 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)

- F. 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 2024 fiscal year is \$115.00/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 in UAC R317-15-5., this Certification decision is subject to a 30 public notice period. 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 Proponent 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).

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John K. Mackey P.E., Director

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Date