

Comments on the December 9, 2020 Draft Public Notice UPDES General Storm Water Permit for Construction Activity Connected with Single Lot Housing Projects Utah Pollution Discharge Elimination System Permit No. UTRH00000 (Common Plan Permit)

Comment Number	Commenter	Permit Part	Comment	DWQ Response
1	Ross Ford, Utah Home Builders Association	1.4	Can the requirement for maintaining a copy of the discharge letter be meet electronically? Retaining a hard copy of a letter on a construction site is difficult and adds an unnecessary burden to the contractor. All regulatory personally have access to the state web site where an electronic copy of all discharge letters could be easily maintained searched and accessed.	Permit Part 4.2.9 requires the permittee to maintain the Authorization to Discharge Letter in the SWPPP. In accordance with Permit Part 4.2.12., the SWPPP must be available at the construction site <u>or online</u> .
2	Ross Ford, Utah Home Builders Association	1.5	This section requires owner or general contractor to sign a "paper copy" of the NOI. The construction and land transfer business has adapted well to electronic signatures. DWQ's process should be modernized with online access and recordkeeping to include electronic signatures. Any effort to eliminate paper transfer increases productivity, makes the process more reliable by avoiding lost papers on jobsites and reduces waste.	We agree. The permit language has been clarified from a "paper copy" to "downloadable pdf version" and the section has been moved in the permit from 1.5. to 1.4.1.
3	Ross Ford, Utah Home Builders Association	1.5	This section refers to 4.2.8, I think it is intended to reference 4.2.10	The reference has been corrected.
4	Ross Ford, Utah Home Builders Association	1.6	when completing the annual renewal, do requirements stay the same? Is this a time where regulators can increase or change regulatory standards? If there is no change why can't this be an automated process handled at the DWQ level. What is gained by forcing a contractor to spend more time and effort completing forms to continue doing the same approved activities?	Construction General Permit and Common Plan Permit coverage is for one year. On or before the one year anniversary of the permit date, the permittee must renew and pay the annual fee. This process can be completed through the online permit database. Permits can be modified at any time and requirements will change during the renewal period which typically occurs every 5 years. Permittees with active permits at the 5-year renewal period must update their SWPPP and NOI to reflect any changes in the renewed permit.
5	Ross Ford, Utah Home	1.7	This section seems to say that if a project is partially complete at the time of a state permit	UPDES permits have a maximum permit term of 5 years per Utah Administrative Code Title R317-8-5.1(1). In the case of the

	Builders Association		renewal the contractor will need to submit for a new NOI and comply with any, and all new requirements. This requirement is extraordinarily difficult to comply with since contracts and costs are set at the beginning of a project, so any changes mid process are not easily anticipated. Contractors need the predictability of knowing regulatory burdens up front so they can accurately accommodate for those needs. Once a project is approved and vested through the NOI process it needs to stand for the duration of the project.	Common Plan Permit, the permit expiration date is January 31, 2021. If the permittee wishes to continue coverage under the renewed permit they must request continuing coverage by completing a new NOI. The permittee will not however, need to pay another permit fee. The permittee will have 60 days to come into compliance with the renewed permit requirements. If the operator does not wish to continue coverage under the renewed permit terms they must cease construction activity, stabilize the site and submit an NOT to terminate permit coverage.
6	Ross Ford, Utah Home Builders Association	1.7	This section references 4.2.10 I think it is intended to reference 4.2.11	The reference has been corrected.
7	Ross Ford, Utah Home Builders Association	1.10.	What is the need for the last sentence of this section. Lettering on a sign large enough to be seen from a public right of way demands a large sign. Signs on construction sites are difficult to work around, expensive to build and an unnecessary waste of natural resources. A smaller sign is sufficient and could easily be place in a safe area of the site. Anyone interested in information can easily walk closer to the sign to access the information.	A large sign is not necessary. The sign needs to be able to be read from a public right-of-way such as a street or sidewalk.
8	Ross Ford, Utah Home Builders Association	Fact Sheet	The fact sheet lists this section as 2.2.1 but the permit addresses it in 2.1.1.	The reference has been corrected.
9	Ross Ford, Utah Home Builders Association	2.1.1	It is not uncommon for materials to be delivered that take more than one day to place, however based on the infrequency of precipitation it is unlikely any run off will occur. For example, a load of topsoil may take 2 to 3 days to be fully placed. If this activity takes place during a dry weather pattern, why is it not permissible to leave the topsoil on the driveway? Under these circumstances moving material or placing perimeter controls is an expensive and wasteful task with no positive impact on water quality.	The risk of topsoil being placed on the driveways, streets, and other impermeable surfaces is not only related to precipitation and snowmelt, but to vehicle traffic that may run over, disturb or otherwise track that sediment from stockpiles or staged topsoil. Both of these conditions pose risks to water quality. The wording of the section allows the operator to stage materials on impermeable areas if no other feasible option is present, however operators should prioritize stockpiling on pervious surfaces.
10	Ross Ford, Utah Home	2.4.5.	many ready-mix companies supply drivers with inflatable clean out tubs. A change in the rule to require only ridged containers eliminates that	The responsibility for providing an appropriate washout container and training on the container's use lies with the permittee, and not with a driver of a ready mix truck. One of the most common

	Builders Association		option. The use of inflatable containers extends beyond regulate sites to include projects that do not require a clean out. If inflatable containers are not aloud drivers will stop carrying them and non-regulated sites will go back to cleaning out on the ground. Inflatable clean out pools has proven to be a useful and effective way to provide clean outs for small pours on sites where a large clean out container or lined pool is impractical.	violations found on construction sites is the dumping of concrete washout on the ground, a problem which the recent use of these containers has not solved. Repeated inspections have revealed a pattern of poor maintenance and discharges from the inflatable containers and have resulted in enforcement action.
11	Ross Ford, Utah Home Builders Association	2.5	SWPPP documentation requiring soil compaction exemptions will cause confusion. Soil compaction is a deliberate process, requiring time and effort. This is not an activity that is performed needlessly. This statement in the SWPPP adds unneeded paperwork. This also requires regulators to make judgement calls on the need for compaction when they have no schooling or expertise to properly assess needs. It adds confusion to require a regulator to make a judgement call without proper training.	The SWPPP map must indicate the locations of structures, parking areas, roads and other areas which necessitate compaction. Topsoil should be preserved where possible and compaction in areas which will be landscaped/revegetated should be avoided where possible as compaction increases runoff, erosion, and poses a threat to water quality. If it is infeasible to avoid compaction in an area, this should be noted in the SWPPP.
12	Ross Ford, Utah Home Builders Association	2.6.3.a.	Is it possible to provide clarification in this section that mirrors the statement in 2.6.3.b, where it says seed mix of plant indigenous to the area or tolerant to the local climatic conditions ... There are areas of the state where local climatic conditions dictate sparce plant life. It is ineffective to obtain stabilization by planting and watering vegetation that is not indigenous to the area when it is not the intent of the owner to maintain what was planted.	The Section has been clarified as follows, "...requires seeding with a seed mix of plants indigenous to the area or tolerant to the local climatic conditions that does not include invasive species."
13	Ross Ford, Utah Home Builders Association	3.2.2.	Daily site checks are unnecessary when no construction activity takes place. They are also unnecessary if current activity is something with no potential impact on water quality. A written report of daily activity especially when nothing is needed is added burden with no meaningful impact. Weekly inspections with a full report are adequate written record to demonstrate compliance.	The permit agrees; the first sentence of this section states, "Each day of construction activity...." Days where no construction activity occurs do not necessitate a daily inspection. The inspection is short, simple, and is completed by construction operators on a normal day to day basis.
14	Ross Ford, Utah Home Builders Association	3.5.1	Could this be clarified to instruct oversight authority inspectors that shortening the prescribed time for correction is only acceptable in situations of immediate threat to waters of the state? It	Due to short nature of home construction, as well as the variable nature of weather, and the possibilities of other unforeseen circumstances, inspectors should have and appropriately utilize discretion in determining the length of time needed for corrective

			would also be helpful for inspectors to provide reference for any violation. Providing builders with proper reference will help them better understand requirements and improve performance.	action. DWQ agrees that all inspectors acting with regulatory authority should provide the Permit reference for any violation; however this permit does not describe requirements for oversight inspectors. The MS4 permits would be an appropriate location for this requirement.
15	Ross Ford, Utah Home Builders Association	4.2.2	Cities regulatory process can delay permitting by months. It is very difficult to estimate construction activities until a start date is determined. Cities need to see a SWPPP as part of the submission process, so we have created a requirement that is impossible to meet because of the requirement. What happens if the contractor makes his best estimate but is wrong?	The SWPPP is a living document, and the estimated start and end dates should be updated if they change.
16	Ross Ford, Utah Home Builders Association	4.2.5	Can this section include language stating the SWPPP identifies the receiving water and its condition as determined by the state of Utah? Does the state catalog and track impaired water? This section needs to refer individuals writing SWPPP's to a state data base so everyone is pulling from the same information.	DWQ assesses waters of the state and determines which water bodies are impaired. Permit Part 2.10.1 includes a link to the Utah Interactive Map which identifies the receiving water, and lists any impairments associated with the water. The link has been added to this section as well.
17	Ross Ford, Utah Home Builders Association	4.2.13.b.	If an oversight authority determines that the SWPPP is not adequate they need to site with specificity the section of the permit that has not been met. A SWPPP should not be denied based on the subjective opinion of an inspector.	DWQ agrees that SWPPP reviewers should refer to the appropriate Permit citations when identifying deficiencies with a SWPPP. This is a requirement of the MS4 permits. The Common Plan Permit does not cover the requirements for review of SWPPPs.
18	Ross Ford, Utah Home Builders Association	5.1.2.	can we add language to this section clearly stating that a BMP in need of repair does not constitute a violation. There are inspectors that have interpreted this section to say fines will be \$10,000 for any problem. This information confuses and frightens contractors. It also confuses some MS4 inspectors who are led to believe a mistake on there part will lead to a \$10,000 fine to the city. This language is a catalyst for over regulation.	The section has been updated for clarity to read: "to a fine of up to \$10,000 per day".
19	Gus Sharry, Canyon Engineering	Fact Sheet	Suggest you revise the forms to identify projects where stormwater control BMPs are not necessary. There are many such sites where type of construction, construction footprint, existing	Sites that meet the criteria you identify would likely qualify for a Low Erosivity Waiver. Information on Low Erosivity Waivers can

			vegetation, soils, and slopes preclude transport of sediment off site. Such projects are typically located and appreciable distance from any surface water, wetland, intermittent stream, or storm drain inlet/conveyance. As for "appreciable distance", suggest it vary within a range of distances, depending on existing vegetation, soils, and slopes that will not be disturbed.	be found at https://deq.utah.gov/water-quality/general-construction-storm-water-updes-permits .
20	Gus Sharry, Canyon Engineering	Fact Sheet	Suggest much more emphasis be placed on the particular resource we are trying to protect, and its location in relation to the project site. Suggest such dialog be located up front on the forms, with a directive to "stop, no permit required" once the information provided confirms that the project cannot reasonably result in sediment transport to the particular resource we are trying to protect. In summary we need a reasonable floor below which erosion and sediment control is left to the site contractor. In other words, there is some practical limit below which requiring a permit amounts to an unjustified tax.	DWQ does not want to emphasize one type of coverage over another for construction permitting as it creates additional confusion for construction operators. It is the responsibility of the operators to ensure they obtain the correct coverage, and DWQ provides extensive outreach and staff availability to answer questions and assist operators in determining which coverage best suits their specific project needs.
21	Paul Miller, Lindon City	Fact Sheet	Is it possible to somehow utilize this permit to address small commercial sites that dont require a full SWPPP. UTRC??	The Common Plan permit is for single lot housing projects and the requirements of the permit are centered around the potential pollutants and timing of single lot residential construction. The incorporation of commercial development into this permit would not adequately target the potential pollutants associated with a much wider variety of pollutants, and a much more variable timing. Second, the number of commercial projects that would meet the criteria of being less than an acre but part of a larger common plan of development that does disturb greater than an acre is small, and not very common. DWQ believes that the inclusion of commercial projects into this permit would be disruptive to the homebuilders who use this permit. A full SWPPP (albeit with different requirements) is required for both Construction General Permit and Common Plan Permit.