



State of Utah

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Department of  
Environmental Quality

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DIVISION OF WATER QUALITY  
Erica Brown Gaddis, PhD  
Director

April 07, 2020

DIVISION OF WATER QUALITY  
UTAH DEPARTMENT OF ENVIRONMENTAL QUALITY  
**PUBLIC NOTICE OF DUSTIN DASTRUP EXPEDITED SETTLEMENT OFFER**

**PURPOSE OF PUBLIC NOTICE**

THE PURPOSE OF THIS PUBLIC NOTICE IS TO SOLICIT COMMENT ON THE EXPEDITED SETTLEMENT OFFER (ESO) BETWEEN THE STATE OF UTAH DEPARTMENT OF ENVIRONMENTAL QUALITY, DIVISION OF WATER QUALITY (“DIVISION”) AND DUSTIN DASTRUP. THE ESO CONTAINS PENTALTIES FOR VIOLATIONS OF THE STORM WATER RULES ON THE DASTRUP CANYON RESIDENCE CONSTRUCTION SITE IN OREM. THE ESO IS PROVIDED UNDER THE AUTHORITY OF THE UTAH WATER QUALITY ACT, TITLE 9, CHAPTER 5, SECTION 115.

**PERMIT INFORMATION**

NAME: **EXPEDITED SETTLEMENT OFFER FOR DUSTIN DASTRUP.**

**BACKGROUND**

The Utah Pollutant Discharge Elimination System (UPDES) General Permit for Discharges from Construction Activities (Permit No. UTRC00000) authorizes owners and operators of construction activities that meet the requirements of Part 1 of this permit to discharge pollutants in accordance with specific effluent limitations and conditions. The owner and operator, Dustin Dastrup, had obtained coverage under this general permit on April 18, 2018 and was assigned permit number of UTR386005.

The Division conducted an inspection of the construction site on March 5, 2019. The following violations were discovered: signs of erosion due to a lack of controls, hydraulic fluid left outside with no cover or containment, storm water pollution prevention plan (SWPPP) map did not match actual conditions, corrective actions needed and none had been logged, inspections were not being completed, and no response to the initial letter from DWQ requesting corrections.

**PUBLIC COMMENTS**

The Expedited Settlement Offer is available for public review under “Public Notices” at [www.waterquality.utah.gov/](http://www.waterquality.utah.gov/). Written public comments can be submitted to: Lisa Stevens, Utah Division of Water Quality, P.O. Box 144870, Salt Lake City, Utah 84114-4870 or by email at: [LStevens@utah.gov](mailto:LStevens@utah.gov). The deadline to receive comments is by close of business **30 DAYS FROM POSTING DATE**. After considering public comment, the Division of Utah Water Quality will execute the Expedited Settlement Offer or revise it.

DWQ-2020-008000



UTAH DEPARTMENT of  
ENVIRONMENTAL QUALITY  
**WATER  
QUALITY**

**DWQ-2020-007974**



### EXPEDITED SETTLEMENT OFFER INSTRUCTION SHEET

The Expedited Settlement Offer ("Offer") is the preferred option to resolve non-compliance. If you choose to sign and return the Offer, you waive your opportunity for a hearing and to appeal pursuant to the Utah Water Quality Act, Title 9, Chapter 5, Section 112. If you choose not to sign and return the Offer within THIRTY (30) DAYS, the Offer will be automatically withdrawn, without prejudice to DWQ's ability to file an enforcement action for the violations alleged herein or any other violations. DWQ may choose to pursue more formal enforcement measures to correct the violation(s) and seek penalties of up to a maximum penalty of \$10,000 per day per violation.

To accept and proceed you must:

- (1) **Correct all deficiencies** identified by DWQ in the Deficiencies Form (enclosed). **Email or mail photographic proof** and a description of the remedy to demonstrate correction of the deficiencies;
- (2) **Sign two copies of the Offer within thirty (30) days** of receipt and mail both original signed Offers back to DWQ via certified mail;
- (3) **Wait for the 30-day public notice** to be completed and for the Director of DWQ to sign the Offer; and
- (4) **After DWQ has sent you a copy of the Offer signed by the Director and an invoice** you will have **fifteen (15) days to submit payment for the penalty** to the Division of Water Quality. Payment cannot be accepted before this time and will be returned if sent prior to the invoice being generated.

Please retain copies of the signed Offer, the report detailing your corrective actions and the penalty checks for your own records.

You may contact the person listed on your inspection letter to request an extension. DWQ will consider whether to grant an extension on a case-by-case basis. If you believe that the alleged violations are without merit (and you can provide evidence contesting the allegations) you must provide such information to DWQ as soon as possible but no later than THIRTY (30) DAYS from your receipt of the Offer.

Mail any correspondence, signed Offers, and payments to:

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



STATE OF UTAH DEPARTMENT OF ENVIRONMENTAL QUALITY  
DIVISION OF WATER QUALITY

EXPEDITED SETTLEMENT OFFER

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This Expedited Settlement Offer (ESO), is entered into by and between the Division of Water Quality (DWQ) and Dusty Dastrup (Operator) pursuant to the Division's authority under the Utah Water Quality Act, Utah Code Ann. §§ 19-5-111, 19-5-115, UAC R317-1-8 and R317-8-3.9. The DWQ and Operator are sometimes jointly referred to hereinafter as "the Parties." Director" refers to the Director of DWQ.

1. Operator is a "person" as that term is defined in Utah Code Ann. § 19-1-103(4).
2. Operator is conducting "construction activity" at Dastrup Canyon Residence, Highway 189 mile marker 7.9 in Orem, Utah (the Project).
3. DWQ has issued a Construction Storm Water Program UPDES permit No. UTR386005 (Permit) to Operator for the Project. The Permit is subject to specific terms, conditions and best management practices as provided for in UAC R317-8-3.9.
4. The attached "Expedited Settlement Offer Deficiencies Form" (ESODF), incorporated herein by reference, includes Findings which specify the conditions in violation of the Permit observed at the PROJECT during an on-site inspection conducted on March 5, 2019. The ESODF is in lieu of an initial order or notice of violation to facilitate the purposes described hereinafter.
5. The Parties voluntarily enter into this ESO in order to: identify the actions necessary to correct the deficiencies observed at the Project; determine the amount of the civil penalty appropriate for the violation(s) based on the deficiencies alleged; and to conclude this matter without the necessity of further administrative or judicial proceedings. The Parties may agree to settle an action at any time through a Settlement Agreement as provided for in UAC R305-7-320.
6. Operator understands and agrees that a penalty in the amount of \$4,600 is appropriate based on the application of DWQ's penalty policy contained in UAC R317-1-8 as applied to the violation(s) under the circumstances specified herein. This proposed settlement and penalty is subject to a thirty (30) day notice and comment period as provided for in UAC R305-7-402. The Parties each reserve the right to withdraw from this ESO if comments received during the notice period result in a modification to the terms and conditions.
7. By accepting this ESO, Operator neither admits nor denies the findings, violations or deficiencies specified herein.
8. Operator agrees to the terms, conditions and requirements of this ESO. By signing this ESO, Operator understands, acknowledges and agrees that it waives: (1) the opportunity for an administrative hearing pursuant to UCA 19-1-301; (2) the right to contest the finding(s) in the ESODF and the penalty amount specified herein; and (3) the opportunity for judicial review.



STATE OF UTAH DEPARTMENT OF ENVIRONMENTAL QUALITY  
DIVISION OF WATER QUALITY

EXPEDITED SETTLEMENT OFFER

- 9. Operator certifies that all deficiencies identified herein have been corrected and that the Project is currently in full compliance with the terms and provisions of the Permit. Additionally, operator has attached to this ESO: (1) a written description detailing how the deficiencies were corrected; and (2) representative photographs documenting the current conditions and the associated BMPs implemented at the Project.
- 10. The Parties mutually agree that this ESO is entered in good faith and is an appropriate means to resolve the matters specified herein.
- 11. This ESO will be final after the thirty day notice and comment period on the date the Director signs the ESO, at which time the civil penalty takes effect.
- 12. Operator agrees that within fifteen (15) calendar days of receiving the signed and final ESO from the Division Operator shall submit a certified or cashier's check written to the Division of Water Quality in the amount specified in paragraph 4, above and hand deliver or send by certified mail to:

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

- 13. Notwithstanding paragraph 7 above, the violations described herein will constitute part of Operator's compliance history where such history is relevant, including any subsequent violations. Operator understands and agrees that this ESO is not and cannot be raised as a defense to any other action to enforce any federal, state or local law.
- 14. This ESO, when final, is binding upon Operator and any corporate subsidiaries or parents, their officers, directors, employees, successors in interest, and assigns. The undersigned warrants that it is authorized to legally bind their respective principals to this ESO.

ACCEPTED BY OPERATOR:

Name (print) Dustin Dastrup

Title (print) Owner

Signature *Dustin Dastrup* Date 03/20/2020

DIVISION OF WATER QUALITY

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Erica Brown Gaddis, PhD, Director Date \_\_\_\_\_

**Expedited Settlement Offer Worksheet  
Deficiencies Form**



version 1.1

<b>LEGAL NAME AND MAILING ADDRESS OF OPERATOR</b>		<b>Telephone Number</b>	<b>UPDES Permit No.</b>
Dusty Dastrup 825 East 800 North Orem, UT 84097		801-427-9400	UTR386005
<b>LOCATION AND ADDRESS OF SITE</b>		Inspector Name:	Lisa Stevens
Dastrup Canyon Residence Highway 189 mile marker 7.9 Orem, UT 84097		UPDES Program:	Storm Water
		Entrance Interview Conducted:	No
		Exit Interview Conducted:	No
		Exit Interview given to:	
		Exit Interview time:	Date:

<b>FACILITY DESCRIPTION / CONTACT NAMES</b>	
Name of Site Contact (ESO Worksheet recipient):	Dusty Dastrup
Name of Authorized Official (UT CGP Appendix G.16):	Dusty Dastrup
Inspection Date:	03/05/2019
Start Construction Date:	
Estimated Completion Construction Date:	08/01/2018
If Unpermitted, Number of Months Unpermitted:	2 months
Name of Receiving Water Body (Indicate whether 303(d) listed or high quality):	Provo River
Acres Currently Disturbed   Acres to be Disturbed in Whole Common Plan:	14.84
Has Operator Requested Rainfall Erosivity?	No

PERMIT COVERAGE	Findings	Citation Reference**	R C A*	No. of Deficiencies	Dollar Amount	Total
1 Operator unpermitted for _____ months (# months unpermitted equals number of violations)	Permit expired 4/18/19. Counting 2 months for May and June of 2019. Lack of coverage prior to original application for the permit was not included.	UAC R317-8-3.9(1), (6)(d)10, & (6)(e)		2	\$500.00 =	\$1,000
2 Operator did not submit a NOT at the completion of the project.		UT CGP 8.2			\$300.00 =	

<b>SWPPP REVIEW</b>		Citation Reference**	R C A*	No. of Deficiencies	Dollar Amount	Total
3 SWPPP not prepared (If no SWMP, leave elements 3 - 24 blank and put "1" for deficiencies)		UT CGP 7.1.1			\$3,000.00 =	
4 SWPPP prepared but prepared after construction start (# of months = # of violations)		UT CGP 7.1.1 & 1.4			\$200.00 =	
5 SWPPP does not list and identify all potential sources of pollution to include: portable toilet, fuel tanks, egress points, staging areas, waste containers, chemical storage areas, concrete washout, paints, solvents, etc.		UT CGP 7.2.6			\$75.00 =	
6 SWPPP does not correctly identify owner and general contractor for the project site		UT CGP 1.1.1			\$50.00 =	
7 SWPPP does not have site description, as follows:						
8 Nature of activity in description (including disturbed & total acres)		UT CGP 7.2.2			\$40.00 =	
9 Intended sequence of major activities		UT CGP 7.2.4			\$40.00 =	
10 Site Map		UT CGP 7.2.5			\$400.00 =	
11 Site map does not show boundaries of project & disturbances, drainage patterns, slopes, stockpiles, surface waters, inlets, egress points, storm water control measures, natural buffers, structures (to be constructed), stabilization practices, offsite staging, waste bins, equipment storage areas, discharge points, areas of final stabilization (each relevant omission is 1 violation)		UT CGP 7.2.5.a to h.			\$25.00 =	
12 SWPPP does not have location/description industrial activities including concrete, asphalt batch plants, staging areas, equipment or supply storage, borrow areas (including those that are off-site).		UT CGP 7.2.5.a.vii			\$75.00 =	

13	SWPPP does not: Describe all pollution control measures (e.g. BMPs), and show details and specifications for proper installation. (include 0.5 for description and 0.5 for details & specifications for each BMP not provided in SWPPP).		UT CGP 7.2.9.a			\$75.00	=		
14	SWPPP does not describe permanent and interim stabilization practices		UT CGP 7.2.9.c			\$75.00	=		
15	SWPPP does not identify and show locations of the source of non-storm water and discharge.		UT CGP 7.2.7			\$100.00	=		
16	SWPPP does not describe and show locations of natural buffer by water body(ies).		UT CGP 7.2.8			\$150.00	=		
17	SWPPP does not describe the use of treatment chemicals		UT CGP 7.2.9.b			\$100.00	=		
18	SWPPP does not have description of spill prevention and response procedures.		UT CGP 7.2.10.a			\$50.00	=		
19	SWPPP does not have a description of measures that will be used to control <u>waste</u> on the site including: demolition debris, spoils (unwanted dirt), construction waste, hazardous or toxic waste, and sanitary waste. (include 1 for each deficiency).		UT CGP 7.2.10.b			\$50.00	=		
20	SWPPP does not describe inspection procedures including inspectors (and certifications), inspection schedules, inspection forms or checklists, and procedures for corrective action. (1 violation for each deficiency).		UT CGP 7.2.11			\$50.00	=		
21	SWPPP does not describe training of personnel responsible for conducting inspections, taking corrective action, applying or storing treatment chemicals, and those involved with design; installation; maintenance; and repair of storm water control measures.		UT CGP 6 & 7.2.12			\$50.00	=		
21	Copy of permit and/or NOI not in SWPPP (each omission is 1 violation)		UT CGP 7.2.16			\$50.00	=		
22	SWPPP has not been updated to match corrections and modifications made on the site.	Per 3/5/19 inspection. 1) Map showed BMPs that were not on site.	UT CGP 7.4.1		1	\$100.00	=	\$100	
23	Copy of SWPPP not retained on site per permit conditions		UT CGP 7.3			\$300.00	=		
	A SWPPP not made available upon request		UT CGP 7.3			\$100.00	=		
24	SWPPP not signed/certified		UT CGP 7.2.15			\$50.00	=		
<b>Subtotal SWMP Deficiencies</b>									<b>\$100</b>

<b>INSPECTIONS</b>									
25	Number of inspections not performed and documented either once every 7 days, or once every 14 days and within 24 hours after storm event greater than 0.5 inches or greater (not required if: permanent stabilization; runoff unlikely due to winter conditions; once a month if temporarily stabilized) (Count each failure to inspect and document as one violation – see next 5 rows).	No inspections after Decemeber 10, 2018. Historical weather data indicates that 30 days of frozen conditions did not exist to allow the suspension of inspections. Temporary stabilization was not complete to allow for a reduction in inspection frequency. December 24, 2018 - June 24, 2019	UT CGP 4.1.2, 4.1.3, 4.1.4		14	\$200.00	=	\$2,800	
	No inspections conducted and documented (if true leave elements 26 to 29 blank):				FALSE	True or False			
	Number of inspections expected if performed every 7 days:								
	Number of inspections expected if performed biweekly:	14							
	If known, number of days of rainfall of >0.5" that occurred during the construction time.								
26	Inspections not conducted by qualified personnel		UT CGP 4.1.1			\$40.00	=		
27	All areas with construction activity disturbance, storm water control measures, construction support areas, exposed to precipitation with storm water flows, temporarily stabilized areas, and storm water discharge points not inspected.		UT CGP 4.1.5			\$40.00	=		
28	Incomplete site inspection reports (date, name and qualifications of inspector, weather information, location of sediment/pollutant discharge, BMP(s) requiring maintenance, BMP(s) that have failed, BMP(s) that are needed, corrective action required including changes/updates to SWPPP and schedule/dates).		UT CGP 4.1.5			\$40.00	=		

29	Inspection reports not properly signed/certified (count each failure to sign/certify as 1 violation)		UT CGP Appendix G.16			\$25.00 =	
						<b>Subtotal Inspections Deficiencies</b>	<b>\$2,800</b>
<b>AVAILABILITY OF RECORDS</b>							
30	Sign/notice not posted		UT CGP 1.5			\$100.00 =	
	Does not contain copy of complete NOI		UT CGP 7.2.16			\$40.00 =	
	Contact information on site sign/notice was not available.		UT CGP 1.5			\$40.00 =	
						<b>Subtotal Records Deficiencies</b>	<b>\$0</b>

BEST MANAGEMENT PRACTICES									
31	No velocity dissipation devices located at discharge locations or outfall channels to ensure non-erosive flow to receiving water		UT CGP 2.1.1			\$100.00	=		
32	Control measures are not properly Selected, installed and maintained	Control measures were not sufficient to prevent erosion on the roadway and sediment deposition offsite. Deficiencies related to this were noted in inspections and had not been corrected.	UT CGP 2.1.1		1	\$100.00	=	\$100	
	Maintenance not performed regular enough to maintain effectiveness of BMPs (count each failure to select, install, maintain each BMP as one violation)		UT CGP 2.1.1			\$100.00	=		
33	When sediment escapes the site from track out or bypassing BMPs, it is not removed at a frequency necessary to minimize off-site impacts		UT CGP 2.1.2			\$100.00	=		
34	Natural vegetated buffer is not present adjacent to bordering water bodies (or substituted equivalent BMPs).		UT CGP 2.1.2			\$100.00	=		
35	Litter, construction debris, and construction chemicals exposed to storm water are not prevented from becoming a pollutant source (e.g. screening outfalls, pickup daily, etc.)	Hydraulic fluid left out.	UT CGP 2.3.3		1	\$100.00	=	\$100	
36	Stabilization measures are not initiated within 14-days on portions of the site where construction activities have temporarily or permanently ceased	Site was not temporarily stabilized prior to temporary cessation of work over winter and the SWPPP did not reflect any planning for stabilization prior to frozen conditions.	UT CGP 2.2.1 & 2		1	\$500.00	=	\$500	
	*Exceptions:								
	(a) Snow or frozen ground conditions								
	(b) Activities will be resumed immediately after the 14 days								
	(c) Arid or Semi-arid areas (<20 inches per year)								
37	If a sedimentation basin is used, it is not designed for the 2 year, 24 hour storm, or 3600 cubic ft. storage per acre drained.		UT CGP 2.1.3			\$100.00	=		
	Where a sedimentation basin is not used, smaller sediment basins, sediment traps, or erosion controls not implemented for downslope boundaries		UT CGP 2.1.1			\$100.00	=		
	Sediment not removed from sediment basin or traps when design capacity reduced by 50% or more		UT CGP 2.1.2.b.ii & 2.1.3.b.ii			\$100.00	=		
38	Common Drainage does not have sediment traps, silt fences, vegetative buffer strips, or equivalent sediment controls for all down slope boundaries (not required if sedimentation sediment basin meeting criteria in 37 above)		UT CGP 2.1.1			\$100.00	=		
<b>Subtotal BMP Deficiencies</b>									<b>\$700</b>

ADDITIONAL FACTORS							
39	Is the project over 30 acres? (True or False)	Add 15% to penalty		FALSE			\$0
40	Is the project over 100 acres? (True or False)	Add 50% more to penalty		FALSE			\$0
41	Does the project border on a water body? (True or False)	Add 20% to penalty		FALSE			\$0
42	Significant Economic Benefit	Economic Benefit entries over \$200 enter in column "H" from separate BEN worksheet (included if value)				\$199.00	
<b>Total Expedited Settlement:</b>							<b>\$4,600</b>