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**UTAH DEPARTMENT OF ENVIRONMENTAL QUALITY  
DIVISION OF WATER QUALITY**

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**IN THE MATTER OF:**  
  
**South Davis Sewer District  
C/O Dal Wayment, General Manager  
1380 West Center Street  
North Salt Lake City, UT  
UPDES Permit No. UT0021628**

**ADMINISTRATIVE SETTLEMENT  
AGREEMENT AND ORDER ON  
CONSENT**

Docket No. UTM-19-06 and UTM-20-01

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This Administrative Settlement Agreement and Order on Consent (“Agreement” or “Order”) is entered into voluntarily by and between the Director of the Utah Division of Water Quality (“Director”), under the Director’s legal authorities described below and South Davis Sewer District (SDSD) in its capacity as the “Operator” who is legally responsible for the operation of the South Davis Sewer District- South Plant (“Facility”), jointly referred to hereafter as “the Parties.” By entering into this Agreement, the parties wish, without further administrative or judicial proceedings, to resolve the issues arising out of alleged violations of the Utah Water Quality Act, Utah Code Section 19-5-101 *et seq.* (the “Act”), and corresponding regulations in the Utah Administrative Code R305-7 *et seq.*

**STATUTORY AND REGULATORY AUTHORITY**

1. The Director has authority to administer the Act pursuant to Utah Code Section 19-1-105(1)(e), and to enforce the Utah Water Quality Rules, Utah Administrative Code R317 through the issuance of orders, as specified in Utah Code Sections 19-5-106(2)(d) and Section 19-5-111. The Director also has authority to settle any civil action initiated to compel compliance with the Act and implementing regulations pursuant to Utah Code Section 19-5-106(2)(k).
2. The Director has been delegated authority by the U.S. Environmental Protection Agency (EPA) to administer the National Pollutant Discharge Elimination System (NPDES) permit program under the Federal Clean Water Act, 33 U.S.C. § 1251 *et seq.* (CWA).

**FACTS AND FINDINGS**

The Director issued two (2) Notice of Violation and Orders, Docket Numbers UTM-19-06 and UTM-20-01 (“NOV/COs”) to South Davis Sewer District- South Plant on December 19, 2019 and March 17, 2020, respectively. The Parties intend to resolve SDSD South Plant’s violations through December 2020, without issuing an additional NOV/CO for the additional violations that have occurred at the facility since the March 17, 2020 NOV/CO was issued. The Director relies upon the following Facts and Findings for purposes of this Agreement:

1. SDSD operates the South Davis Sewer District South Plant located along the Jordan River in North Salt Lake, Davis County, Utah. The SDSD South Plant treats wastewater from North Salt Lake, Woods Cross, and a portion of Bountiful.
2. The Wasatch Resource Recovery Project (WRR) is an energy-to-waste project that receives and digests organic waste to produce biogas (methane), which is sold as a fuel, and dewatered solids, which are used for fertilizer. Liquid from the solid dewatering process is discharged to the South Plant for additional treatment. The SDSD is a 50 percent owner of WRR and the facility is located on SDSD property.
3. The Director issued the SDSD South Plant UPDES permit # UT0021628 on March 1, 2017, which was modified in 2018 and 2020. SDSD's most recent modified permit became effective on January 3, 2020 and expires on November 30, 2021 (the Permit). The Permit authorizes discharges from the South Plant to the Jordan River with permit limitations and conditions.
4. On December 18, 2019, the Division issued a NOV/CO Docket No. UTM 19-06 for nitrogen, ammonia [as N] exceedances at the South Plant from July 2019 to October 2019. NOV/CO Docket No. UTM 19-06 required a response within thirty (30) days.
5. On January 14, 2020, SDSD requested a fourteen (14) day extension on their NOV/CO response, on the basis that the holidays hindered their ability to respond. On January 16, 2020, the Division granted the extension request.
6. On January 31, 2020, SDSD submitted their response to Docket No. UTM 19-06 NOV/CO, meeting the established extension date. However, the response was insufficient to meet the NOV/CO requirement that the Facility immediately come into compliance with the Act and cease unpermitted discharges because the Facility had ongoing nitrogen, ammonia [as N] effluent violations and the earliest date of proposed compliance provided in the response was January 18, 2021.
7. On March 17, 2020, the Division issued a NOV/CO Docket No. UTM 20-01 for nitrogen, ammonia [as N] exceedances at the South Plant from November 2019 to January 2020. That NOV/CO was distributed via email to SDSD on March 31, 2020.
8. On or around April 6, 2020, SDSD began daily grab sampling of total nitrogen and nitrogen, ammonia [as N] in both the South Plant effluent and WRR supernatant as required by the Compliance Order section of the NOV Docket Number UTM- 20-01 items number 9 and 10.
9. On or around April 9, 2020, SDSD began weekly acute static renewal toxicity tests on composite samples of effluent at the S. Plant as required by the Compliance Order section of NOV Docket Number UTM-20-01 item number 11.
10. On April 15, 2020, the Division received a report from the SDSD evaluating interim options to achieve compliance with the South Plant's nitrogen, ammonia [as N] effluent limits.
11. On April 30, 2020, the Division received a request for a thirty (30) day extension from SDSD for the 30-day deadline provided by Utah Administrative Code R305-7-303 and R305-7- 104(5) for contesting the NOV/CO issued to South Davis Sewer District (SDSD). On May 5, 2020, the Division issued a letter granting the extension request.

12. On April 30, 2020, the Division received a report from SDSD detailing how the facility will achieve consistent and ongoing compliance with the South Plant's nitrogen, ammonia [as N] effluent limits. This report was required by item number 4 in the Compliance Order section of the Notice of Violation and Compliance Order Docket No. UTM-20-01 (NOV/CO). This report was received by the thirty (30)-day deadline outlined in that NOV/CO.
13. On May 13, 2020, SDSD submitted to the Division an application for a construction permit to undertake the rehabilitation of the South Plant and installation of conventional activated sludge-based nutrient removal.
14. On June 11, 2020, the Division emailed SDSD a letter titled "Response to proposed interim compliance report and compliance plan for Notice of Violation and Compliance Order", addressing the reports submitted to the Division by SDSD to address interim and consistent compliance at the South Plant with nitrogen, ammonia [as N] effluent limits and requiring SDSD to notify the Division within five (5) days if options to haul WRR effluent to another disposal or treatment site will be utilized.
15. On June 18, 2020, the Division received a request for an extension from SDSD for the 5-day deadline to notify the Division if SDSD will conduct hauling as required in the letter emailed out on June 11, 2020. SDSD requested an extension to July 10, 2020.
16. On June 23, 2020, the Division received an extension request for the 90-day requirement for SDSD to control any industrial users which could violate a pretreatment standard and take enforcement against any user which contributed to the UPDES violations. The 90-day requirement can be found in the Compliance Order section of NOV (Docket No. UTM-20- 01) items 7 and 8. SDSD requested an extension to July 10, 2020.
17. On June 30, 2020, the Division approved the construction permit for SDSD to undertake the rehabilitation of the South Plant and installation of conventional activated sludge-based nutrient removal.
18. On July 1, 2020, the Division sent out a letter granting the extension requests received on June 18, 2020 and June 23, 2020.
19. On July 10, 2020, the Division received a response from SDSD addressing the remainder of any outstanding items requested in the June 11, 2020 letter and issued NOV's Docket Numbers UTM-19-06 and UTM-20-01.
20. In December 2020, SDSD notified the Division that the South Plant will exceed its 1 mg/L annual average Phosphorous Limit for 2020.

### **ORDER**

Based upon the foregoing Facts and Findings, the Agreement of (South Davis Sewer District), and good cause appearing, IT IS HEREBY ORDERED as follows:

1. The Division calculated a total penalty of **\$232,831.00**. **South Davis Sewer District** shall

pay a penalty in the amount of \$38,805.00 and associated investigative costs in the amount of \$15,345.00 for a total of \$54,150.00, which was calculated and adjusted for circumstances in conformance with the penalty policy outlined in Utah Administrative Code R317-1-8.

Payment is to be made within thirty (30) days of the effective date of this Agreement by online payment, or check made payable to the State of Utah, referencing this matter, delivered or mailed to:

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

2. SDSD shall apply an additional \$38,805.00 to fund a mitigation project(s) according to the following parameters:
  - a. The mitigation project(s) must be submitted to the Division within six (6) months and must be reviewed and approved by the Division.
  - b. The mitigation project(s) must meet and adhere to the requirements of R317-1-8.4 as stated below:
    - i. The project must be in addition to all regulatory compliance obligations;
    - ii. The project preferably should closely address the environmental effects of the violation;
    - iii. The actual cost to the violator, after consideration of tax benefits, must reflect a deterrent effect;
    - iv. The project must primarily benefit the environment rather than benefit the violator; and
    - v. The project must not generate positive public perception for violations of the law.
3. The Director agrees to hold in abeyance \$155,221.00, so long as SDSD completes the following terms within the timeframes outlined below.
  - a. Meets all the payment terms outlined above in item 1 of this Order.
  - b. Submits a proposed mitigation project to the Division within six (6) months of the effective date of this Agreement that meets all terms outlined in item 2 of this Order. Failure to do so will result in \$10,000 for each month past the deadline to no longer be held in abeyance.
  - c. Does not violate the Act, rules, or UPDES Permit No. UT0021628 at the South Plant for a period of 12 months from the effective date of this agreement and



at least 6 months after all facility upgrades are fully implemented, as confirmed by the Division. Once the facility upgrades have been fully implemented, SDSD will submit written notice to the Division for review and written confirmation. If new violations occur within the timeframes set forth in this paragraph, the penalty amounts listed below will no longer be held in abeyance, and the following amounts will become due and payable to the State of Utah within 30 days after receipt of written demand by the Division, and shall be in addition to any penalties imposed for the new violations. In no event will the total amount due under this subsection exceed the penalties held in abeyance:

- i. \$10,000 per violation per day for discharge violations, including but not limited to UPDES Permit limit exceedances, spills, or overflows. For the purposes of this Agreement, an exceedance of a monthly average effluent limit will be considered one (1) day.
    - ii. \$500 per occurrence for recordkeeping violations or other violations determined by the Director to be minor.
    - iii. \$10,000 per violation per day for violations of the pretreatment program implemented by SDSD. This includes failure to enforce all applicable pretreatment standards and requirements.
  - a. Within six (6) months of the effective date of this Agreement, complete the enforcement taken against Wasatch Resource Recovery (WRR) with a settlement and penalty which has been reviewed and agreed upon by the Division. Failure to do so will result in \$10,000 for each month past the deadline to no longer be held in abeyance.
  - b. Within thirty (30 days) of the effective date of this Agreement, provide the Division with a proposed compliance schedule to adopt new ammonia criteria. Once the Director approves the compliance schedule, the permit will be modified to incorporate the compliance schedule. Failure to do so will result in \$10,000 to no longer be held in abeyance.
4. The Division agrees to modify the existing permit to contain Mass (lbs/day) based limits for nitrogen, ammonia [as N], which may provide some relaxation in comparison to concentration (mg/L) based limits. The limits will be re-evaluated during the next permit renewal or whenever new limits are adopted based on newly adopted criteria, whichever is first. The limits will be implemented via a compliance schedule.
5. The Director agrees to reduce the additional sampling required by the Division in the NOV/CO (UTM 20-01) according to the tiered reduction outlined by the table below. To reduce sampling frequency, SDSD must request a reduction from the Division and must be granted approval by the Director.
- a. Reduction in daily nitrogen, ammonia [as N] grabs sampling. If SDSD exceeds the max monthly average for nitrogen, ammonia [as N] in any two (2) consecutive months after they are granted approval for sampling reduction, they will be required to return to more frequent sampling as determined by the Director.

Milestone	New Frequency
Three (3) consecutive months with no ammonia daily max and monthly average exceedances.	Sampling 5 X Week (Mon- Fri)
Six (6) consecutive months with no ammonia daily max and monthly average exceedances.	Sampling 4 X Week (Mon-Wed, Fri)
Nine (9) consecutive months with no ammonia daily max and monthly average exceedances.	Return to Permit Frequency (3 X Week)

- b. Reduction in weekly acute static renewal toxicity tests on composite samples of the final effluent at 001. If SDSD fails any two (2) consecutive tests after they are granted approval for sampling reduction, they will be required to return to more frequent sampling as determined by the Director. The tests must follow the requirements outlined in Item 11 in Section E of the NOV/CO (UTM 20-01).

Milestone	New Frequency
Four (4) consecutive tests where no acute toxicity has occurred in 100% effluent.	Bi-Weekly Sampling, Alternating Species
Six (6) consecutive tests where no acute toxicity has occurred in 100% effluent.	Monthly Sampling, Alternating Species
Eight (8) consecutive tests, where no acute toxicity has occurred in 100% effluent.	Quarterly Sampling, Alternating Species
Ten (10) consecutive tests, where no acute toxicity has occurred in 100% effluent.	Request to Stop Additional Sampling.

### **GENERAL PROVISIONS**

1. The Parties recognize that this Agreement has been negotiated in good faith and nothing herein constitutes an admission of any liability. South Davis Sewer District does not admit

and retains the right to controvert in any subsequent proceedings other than proceedings to implement or enforce this Order; the validity of the facts and violations alleged in the NOV/CO. Operator further agrees it will not contest the basis or validity of this Order or its terms.

2. SDDS agrees to the terms, conditions and requirements of this Order. By signing this Order, SDDS understands, acknowledges and agrees that it waives: (1) the opportunity for an administrative hearing pursuant to Utah Code Section 19-1-301; (2) the right to contest the finding(s) in the NOV/CO; and (3) the opportunity for judicial review.
3. Compliance will be conditioned upon SDDS's adherence to the requirements of this Order, the Act, and the applicable Water Quality Rules.
4. This Order includes a civil penalty in excess of \$25,000 and therefore must be presented to, reviewed by, and approved or disapproved by the Board. (Utah Code § 19-5- 104(3)(h)). Final approval by the Director of this Order shall not occur until it is approved by the Board. The Effective Date shall be the date this Order is signed by the Director after it is formally approved by the Board. The Order will not be presented to the Board for final action until after the Division has provided public notice of the proposed Order and has solicited and reviewed any public comments received. All public comments, and the Director's responses, shall be provided to the Board in connection with the Director's request for final action.
5. The Date of Issuance shall be the date this Order is executed by the Director ("Effective Date"). The Director will not sign this Order until after the Division has provided public notice of the proposed Order and has solicited and reviewed any public comments received.
6. The dates set forth in this Order may be extended in writing by the Director, in the Director's sole discretion, based on the Operator's showing of good cause. Good cause for an extension generally means events outside of the reasonable control of the Operator, such as force majeure, inclement weather, contractor or supplier delays, and similar circumstances. However, the Director expects the Operator to employ reasonable means to limit foreseeable causes of delay. The timeliness of the Operator's request for an extension shall constitute an important factor in the Director's evaluation.
7. Nothing in this Order shall preclude the Director from taking actions to include additional penalties against the Operator for future violations of State or Federal law.
8. The Parties acknowledge that neither the Director nor the Board has jurisdiction regarding natural resource damage claims, causes of action, or demands. Therefore, such matters are outside the scope of this Order.
9. The person signing this Order on behalf of the Operator represents to the Director that he or she has the full legal authorization to do so and agrees that the Director may rely on that representation.
10. This Order may be amended in writing if signed by both Parties.

**COMPLIANCE AND PENALTY NOTICE**

As of the date of Issuance, this Order shall constitute a final administrative order. Compliance with the provisions of the Consent Order is mandatory. All violations of the Utah Water Quality Act, the Water Quality Rules, and this Consent Order will be strictly enforced during the time that this Consent Order remains in effect. The Utah Water Quality Act, Utah Code Section 19-5- 115, provides that any person who violates a rule or order made or issued pursuant to the Act may be subject, in a civil proceeding, to a state district judge imposing a civil penalty per day of violation.

[SIGNATURE PAGE FOLLOWS]



IT IS SO AGREED AND ORDERED:

FOR THE UTAH DIVISION OF WATER QUALITY

By: John K. Mackey  
John K. Mackey (Mar 30, 2021 17:51 MDT)  
John K Mackey, P.E., Acting Director

Date: 03/30/2021 (Effective Date)

FOR (OPERATOR) SOUTH DAVIS SEWER DISTRICT

By: \_\_\_\_\_  
Dal D. Wayment, P.E., General Manager

Title: \_\_\_\_\_

Date: 02/01/2021

Dal D Wayment  
Operator Name

DWQ-2021-000644  
DWQ-2021-001795