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

IN THE MATTER OF:
South Davis Sewer District - North Plant
C/O Dal Wayment, General Manager
1800 W 1200 N ~~1800 West Center Street~~
West Bountiful ~~North Salt Lake City, UT~~ UT
UPDES Permit No. UT0021636

**ADMINISTRATIVE SETTLEMENT
AGREEMENT AND ORDER OF
CONSENT**

Docket No. UTM-20-02

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 North Plant, 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).

FACTS AND FINDINGS

The Director issued a Notice of Violation and Order, Docket Number UTM-20-02 (“NOV/CO”) to SDSD on August 31, 2020. The Director relies upon the following Facts and Findings from the NOV/CO for purposes of this Agreement:

1. SDSD operates the South Davis Sewer District-North Plant located along the State Canal near the Farmington Bay Waterfowl Management Area, Bountiful, Davis County, Utah.
2. The Director issued the SDSD - North Plant UPDES permit # UT0021636 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 North Plant to the State Canal in accordance with permit limitations and conditions.
3. The Permit contains a Total Ammonia compliance schedule requiring the operator to submit a report determining whether fish Early Life Stages (ELS) are present in the months of March and October in the State Canal by September 30, 2019. Based on the report, the Division’s determination of whether ELS are present or absent will impact the ammonia limits the North Plant has during those months. If ELS are determined to be absent, the Maximum Monthly Average permit limits will be

10.0 mg/L and 12.0 mg/L for the months of October and March respectively. If ELS are determined to be present, the Maximum Monthly Average permit limits will be 8.0 mg/L for the months of October and March.

4. On September 30, 2019, Mr. Dal Wayment of SDSD submitted a report titled “An Ecological Evaluation of a portion of the Lower Jordan River and Entire State Canal, Utah in Reference to Ammonia Criteria Standards for South Davis Sewer District: Focus on Fish Early Life Stages (ELS) in Relation to March Water Temperatures”. The report was submitted to meet the Total Ammonia compliance schedule in the Permit.
5. On January 3, 2020, the Division issued a letter to SDSD determining that ELS are likely present in the State Canal in the months of March and October.
6. On February 28, 2020, Mr. Matt Myers with SDSD requested the State to evaluate whether the North Plant could be modified to have a mass-based load limit (lbs), rather than a concentration based limit (mg/L) for Nitrogen, ammonia [as N].
7. On April 2, 2020, the Wasteload Analysis for Ammonia for the South Davis Sewer District originally performed on January 10, 2017, was revised to take into consideration SDSD’s request for mass-based limits at the North Plant. The Division determined that a mass-based limit could be protective enough during the ELS absent months (November –February) based on current North Plant effluent flow rates. The Division began evaluating a possible permit modification to allow for temporary mass-based limits during ELS absent months via a compliance schedule, while the North Plant conducts upgrades.
8. On August 31, 2020, SDSD was issued Notice of Violation UTM-20-02 for Max Monthly Average Ammonia exceedances at the N. Plant (UT0021636) from November 2019 – January 2020, and March 2020.
9. SDSD-North Plant UPDES Permit Part I.C.2. 30-day average effluent limits for nitrogen, ammonia [as N] were exceeded during the months of November 2019, December 2019, January 2019, and March 2020, as reported on their DMRs, resulting in 4 months of non-compliance as listed in the following table:

Month/Year	Max Monthly Avg.	Daily Max	% Exceedance Max Monthly Avg.	% Exceedance Daily Max
Limit (Fall)	10 mg/L	16.2 mg/L		
November '19	10.2 mg/L	12.2 mg/L	2%	-
December '19	12.5 mg/L	15.2 mg/L	25%	-
Limit (Winter)	12 mg/L	23.4		
January '20	12.1 mg/L	15.8 mg/L	1%	-
Limit (Winter)	8 mg/L	23.4 mg/L		
March '20	10.6	13.9 mg/L	33%	-

10. On September 28, 2020, SDSD responded to the NOV/CO with information required from section E.3. of the NOV/CO.
11. On November 23, 2020, the Division issued a Modified Permit for SDSD-North Plant that included mass-based limits for nitrogen, ammonia [as N] in the months of November, December, January,

and February for the remainder of the Permit term. The limits will be re-evaluated upon Permit renewal.

12. On January 11, 2021, SDS D reported that the facility had three daily max nitrogen, ammonia [as N] exceedances in December 2020. The exceedances are summarized below:

Date	Daily Max	% Exceedance Daily Max
Limit(Winter)	16.2 mg/L	
12/15/2020	16.8	4%
12/17/2020	18.5	14%
12/21/2020	20.1	24%

ORDER

1. Based upon the foregoing Facts and Findings, the Agreement of SDS D, and good cause appearing, IT IS HEREBY ORDERED as follows:

- A. The Division calculated a total penalty of **\$18,921.00**. SDS D shall pay a penalty in the amount of **\$9,584.00** and associated investigative costs in the amount of **\$1,980.00** for a total of **\$11,564.00**, 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

- B. The Director agrees to hold in abeyance **\$9,337.00** in civil penalties, so long as SDS D completes the following terms within the timeframes outlined:

- i. Meets all the payment terms outlined above in item A of this Order.
- ii. The SDS D N. Plant does not violate the Act, rules, or UPDES Permit No. UT0021636 for a period of 12 months from the effective date of this agreement. If new violations occur within this timeframe, 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, in addition to any penalties imposed for the new violations. In no event will the total amount due under this section exceed the penalties held in abeyance.
 - (a) \$9,337 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.

- (b) \$500 per occurrence for recordkeeping violations or other violations determined by the Director to be minor.

GENERAL PROVISIONS

1. The Parties recognize that this Agreement has been negotiated in good faith and nothing herein constitutes an admission of any liability. SDS D 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. SDS D agrees to the terms, conditions and requirements of this Order. By signing this Order, SDS D 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 SDS D's adherence to the requirements of this Order, the Act, and the applicable Water Quality Rules.
4. The Date of Issuance shall be the date this Order is executed by the Director ("Effective Date"). The Director will not sign the Consent Order until after the Division has provided public notice of the proposed Order and has solicited and reviewed any public comments received.
5. The dates set forth in the Order section of 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.
6. 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.
7. 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.
8. 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.
9. 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: _____
Erica B. Gaddis, PhD
Director


Date: _____ (Effective Date)

FOR (OPERATOR) SOUTH DAVIS SEWER DISTRICT

By: Dal D. Wayment

Title: General Manager

Date: 02/04/2021



Dal Wayment, South Davis Sewer District

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