Stan Wood, Commissioner

Wayne County Commission

P.O. Box 189

Loa, UT 84747

 **Subject: Approval 401 Water Quality Certification with Conditions.**

 401 Water Quality Certification No.: SPK-2008-00193.

 USACE 404 NWP 37 Permit No.: SPK 2008-00193.

 Applicant: Wayne County Commission.

 Project: Diversion for the Towns of Hanksville and Caineville, a NRCS Emergency Watershed Protection (EWP) project (Project).

 Date of Application: January 23, 2017.

 Requests: (1) Remove the existing Hanksville diversion concrete structure and appurtenances;

 (2) Construct a new diversion structure and appurtenances.

Purpose: To sustain agricultural irrigation water delivery for agriculture in Hanksville. The project will be to remove and replace the flood damaged 2008 Hanksville diversion structure after constructing a new diversion structure.

Location: The existing diversion structure is located on the lower Fremont River three miles west of the Town of Hanksville (Hanksville), Wayne County, Utah with the new structure one and one half miles west of Hanksville at the historical diversion site pre-2006. Project can be located on the Hanksville topographic map at Section 13/17, Township 28 South, Range 10 East /11 East. New Diversion: Latitude 38.37024 Longitude - 110.74276. 2008 Diversion to be removed: Latitude 38.37008 Longitude -110.77136.

 Watercourse: Lower Fremont River, Colorado River West Watershed Management Unit, Wayne County, Utah.

 Public Comment Period: 02/24/2017 – 03/17/2017.

 Comments and Inquiries

 Received: None.

Dear Commissioner Wood:

Pursuant to Section 401 of the Federal Water Pollution Control Act, commonly known as the Clean Water Act (CWA), the Utah Department of Environmental Quality, Division of Water Quality (DWQ) certifies that the Wayne County Commission (County) has provided reasonable assurances that any discharge associated with the proposed Project in the lower Fremont River will not violate surface water quality standards, or cause additional degradation in surface waters not presently meeting water quality standards. The affected portions of the lower Fremont River have the following beneficial uses as stated in Utah Administrative Code (UAC R317-2-6):

Class 1C – Protected for domestic purposes with prior treatment by treatment processes as required by the Utah Division of Drinking;

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;

Class 3C - Protected for nongame fish and other aquatic life, including the necessary aquatic organisms in their food chain;

Class 4 - Protected for agricultural uses including irrigation of crops and stock watering.

As documented in Utah’s *2016* *Integrated Report*, the lower Fremont River was assessed as being impaired for designated beneficial use Class 4, due to total dissolved solids (TDS). The Fremont River Watershed Water Quality Management Plan (Plan) addressed this impairment and was approved by U.S. EPA in 2002 (see link <http://www.deq.utah.gov/ProgramsServices/programs/water/watersheds/docs/2006/09Sep/FREMONT_WQMP.pdf>). The lower Fremont River, as defined in this Plan, begins at the eastern boundary of Capitol Reef National Park and ends at the confluence with the Dirty Devil River. The average TDS concentration exceeds water quality standards for four months in the summer, June through September. The Total Maximum Daily Load (TMDL) recommended a load reduction to address salt loading entering the lower Fremont River through improving: the efficiency of irrigation methods; conveyances to minimize surface runoff and riparian herbaceous cover. Additional Best Management Practices (BMPs) listed include: stream channel stabilization; eliminate salt loading from artesian wells.

In accordance with Section 401(a)(1) of the CWA [33 U.S.C. Sec. 1341(a)(1)], DWQ hereby issues this amended 401Water Quality Certification to conduct the outlined Project requests as described in the Certification Application dated Jan. 23, 2017 provided the conditions outlined below are met and included in the U.S. Army Corps of Engineers (USACE) 404 Nationwide Permit 37 SPK 2008-00193.

1. Applicant should ensure that all workers involved are continuously aware of the water quality protection measures before the start and during the dredging and construction period.
2. Water quality standards in the lower Fremont River and its tributaries could be violated unless appropriate Best Management Practices (BMPs) are incorporated to minimize the erosion-sediment and nutrient load to any adjacent waters during Project demolition, construction and normal operation of the diversion structures and appurtenances. Utah Administrative Code R317-2 requires that the Project and subcontractors cannot increase water turbidity by 10 NTUs in lower Fremont River or tributaries and if violated shall immediately notify the DWQ. A fact sheet describing the Utah Department of Environmental Quality’s (DEQ) recommended environmental BMPs for construction sites are located on our web site at: http://www.deq.utah.gov/Permits/water/updes/docs/utrc00000.pdf
3. Before construction or ground-disturbing activities begin, the Project must receive DWQ Approval on the following plans.
4. Engineered Stamped Sediment Disposal Management Plans for the: 1) proposed construction and demolition of the new diversion structure; 2) implementation of a Temporary Cofferdam or other means of bypass to divert flow during new construction activities.
5. Spoils Management and Hazardous Materials (spoils contamination and accidental spills). Include the minimum setbacks and notification procedure listed in Condition #4 and #5.

Before the new diversion can be put into operation, the Project must receive DWQ Approval for the Sediment Disposal Plan for the Operation and Maintenance of the new diversion structure including the proposed Sediment Sluice, labyrinth weir and any other sediment capturing features. This plan is to be signed by the responsible party from each of the irrigation companies that will utilize the new diversion structure.

Each of the plans will emphasize the BMPs to be utilized in the control of sediment re-introduction for natural downstream water quality and to produce minimal environmental impacts to the aquatic resources.

1. Refueling equipment and storage of lubricants and fuels will occur at designated staging areas

and in state approved containers. The storage and refueling areas will be at least 500 feet from the edge of the nearest water body (including wetlands), at least 200 feet from the nearest private water supply well, and at least 100 feet from the nearest municipal water supply well.

1. Utah Code Annotated 19-5-114 requires that any spill or discharge of oil or other substances which may cause pollution to the waters of the State, including wetlands, must be immediately reported to the Utah DEQ Spill Hotline at (801) 536-4123, a 24-hour phone number. The County agrees to fully remediate any spill or discharge in accordance with all applicable regulations.
2. As much as possible conduct in-stream work during low flow periods.
3. The County must acquire all necessary easements, access authorizations and permits to ensure they are able to implement the Project, including the Utah Department of Transportation.
4. The legislatively-mandated fee for 2017 is $90.00/hour, for review and issuance of the §401 Water Quality Certification http://www.deq.utah.gov/FeesGrants/fees/docs/2016/DEQFEEDOC17.pdf, per: (see page174). A quarterly invoice will be sent to you the plans have been approved. Your payment is due within 30 days.
5. The County shall not use any fill material which may leach organic chemicals (e.g., discarded asphalt), noxious weeds/seeds or nutrients (e.g., phosphate rock) into waters of Utah.
6. Construction activities that disturb one acre or more, or are part of a common plan of development, are required to obtain coverage under the Utah Pollutant Discharge Elimination System (UPDES) Storm Water General Permit for Construction Activities, Permit No. UTRC00000. 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. A fact sheet describing the permit application procedures are located on our web site at: www.deq.utah.gov/Permits/water/updes/updes\_f.htm
7. Dewatering activities, if necessary during the construction, may require coverage under the UPDES General Permit for Construction Dewatering, Permit No. UTG070000. The permit requires water quality monitoring every two weeks to ensure that the pumped water is meeting permit effluent limitations, unless the water is managed on the construction site. For more dewatering information refer to DEQ’s website at: http://www.deq.utah.gov/Permits/water/updes/docs/utrc00000.pdf
8. §401 Certification Modification: Without limiting DWQ’s discretion to take other actions in accordance with UAC R317-15, and, as applicable, 33 USC 1341, DWQ may modify the Certification to add, delete, or modify the conditions in this Certification as necessary and feasible to address:
9. Adverse or potentially adverse Project effects on water quality or designated beneficial uses that did not exist or were not reasonably apparent when this Certification was issued;
10. TMDLs;
11. Changes in water quality standards;
12. Any failure of Certification conditions to protect water quality or designated beneficial uses when the Certification was issued; or
13. Any change in the Project or its operations that will adversely affect water quality or designated beneficial uses when this Certification was issued.

Please contact Mr. Bill Damery at (801) 536-4354, wdamery@utah.gov with any questions you may have concerning this 401 Water Quality Certification with Conditions.

Sincerely,

 Walter L. Baker, P.E.

 Director

WLB/WD/blj

cc: Hollis Jencks, USACE, via mail

DWQ-2017-001421