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

IN THE MATTER OF:

South Davis Sewer District

North Treatment Plant
1800 West 1200 North
Bountiful, UT 84087
Permit No. UT0021636

STIPULATED COMPLIANCE ORDER

Docket No. M22-02

This Stipulated Compliance Order (“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 North Treatment Plant (“Facility”), jointly referred to hereafter as “the Parties.”

By entering into this Agreement, the Parties wish, without further administrative or judicial proceedings, to establish compliance requirements and stipulate to civil penalties arising out of alleged violations of the Utah Water Quality Act, Utah Code §§ 19-5-101 through 19-5-126 (the “Act”), and corresponding regulations in the Utah Admin. Code R317-1-1 through R317-801-6 (“Water Quality Rules”) and Utah Admin. Code R305-7-101 through R305-7-611.

STATUTORY AND REGULATORY AUTHORITY

1. The Director has authority to administer the Act pursuant to Utah Code § 19-1-106(2)-(3), and to enforce the Water Quality Rules in Utah Admin. Code R317 through the issuance of orders, as specified in Utah Code §§ 19-5-106(2)(d) and -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 § 19-5-106(2)(k).

FACTS AND FINDINGS

The Director relies upon the following Facts and Findings for purposes of this Agreement:

1. SDSD is a “person” as that term is defined in Utah Code § 19-1-103(4).
2. For the purposes of this Agreement, the Parties agree to and stipulate to the findings and violations identified in the October 20, 2022 Notice of Violation and Compliance Order (“NOV/CO”), Docket No. M22-02, and as described below.

3. On November 18, 2022, SDSD provided a response to the NOV/CO, Re: Report Required by Notice of Violation Docket No. UT0021636 (“M22-02 Response”). M22-02 Response identifies an erroneous violation in the NOV/CO: The August 2022 Total Ammonia Monthly Maximum lists the effluent limit as 5.5 mg/L but Permit No. UT0021636 (“Permit”) Part I.C.3.a. (modified version which became effective on December 9, 2021) sets a compliance schedule which sets the Total Ammonia Maximum Monthly Average for July through September as 8.0 mg/L until August 31, 2025. Therefore, the Division does not consider this incident as a violation in the NOV/CO and did not consider it when calculating the penalty for M22-02.
4. M22-02 Response indicates that SDSD intends to continue to follow the compliance schedule outlined in Permit Part I.C.3.a. to meet the final ammonia effluent limits by September 1, 2026. In accordance with this compliance schedule, SDSD submitted a capital facilities plan on October 24, 2022 (“2022 Facilities Plan”) and a modification to provide additional detail to the 2022 Facilities Plan on May 5, 2023 (“2023 Facilities Plan”). Both plans indicate SDSD’s intent to design and construct a moving bed biofilm reactor to treat wastewater for ammonia. As per the compliance schedule, SDSD has until August 1, 2026, to complete construction and begin utilizing the Facility upgrades, so that the September 1, 2026 final ammonia effluent limit can be met.
5. Since the issuance of the NOV/CO, SDSD has experienced additional exceedances at the North Treatment Plant. The Parties intend that this Stipulated Compliance Order will settle these additional violations in addition to the violations identified in the NOV/CO.

ORDER

Based upon the foregoing Facts and Findings, the Agreement of SDSD, and good cause appearing, the Director orders as follows:

1. Based on the application of the Division’s penalty policy, contained in Utah Admin. Code R317-1-8, to the violations specified in the NOV/CO, SDSD agrees to pay a civil penalty of \$80,000.00.
2. Payment associated with the NOV/CO, i.e. the penalty amounts described in paragraph 1, is to be made within thirty (30) calendar days of the Effective Date of this Agreement (defined below), using one of the following options:
 - a. CHECK – Payable to the Division of Water Quality. The payment shall be sent to:

Division of Water Quality
PO Box 144870
Salt Lake City, Utah 84114-4870
 - b. OTHER – For other available payment options, please contact the Division of Water Quality Finance staff at eqwqfinance@utah.gov.

3. While the Permit includes a compliance schedule, the Division anticipates that SDSL may exceed Permit limits prior to completion of the Facility upgrades. For the following Permit effluent limit exceedances that occur at the North Treatment Plant between December 1, 2023 and September 1, 2026, SDSL agrees to pay the following sums:
 - a. \$7,000.00 for each Total Ammonia Daily Maximum exceedance; and
 - b. \$3,500.00 for each Total Ammonia Maximum Monthly Average exceedance and Total Ammonia Maximum Monthly Load exceedance.
4. For each occurrence of all other Permit effluent limit exceedances that occur at the North Treatment Plant between October 13, 2023 and September 1, 2026, SDSL agrees to pay \$2,000.00.
5. Payment associated with all future effluent exceedance violations are to be made within thirty (30) calendar days of the Discharge Monitoring Report (“DMR”) certification date, using one of the following options:
 - a. CHECK – Payable to the Division of Water Quality. The payment shall be sent to:

Division of Water Quality
PO Box 144870
Salt Lake City, Utah 84114-4870
 - b. OTHER – For other available payment options, please contact the Division of Water Quality Finance staff at eqwqfinance@utah.gov.
6. SDSL elects to deposit the civil penalty and any required stipulated penalties into the Environmental Mitigation and Response Fund administered by the Executive Director of the Department of Environmental Quality as authorized by Utah Code § 19-1-603(3) (“Fund Deposit”). The Fund Deposit shall be fully used and is not returnable to SDSL. The Fund Deposit shall be used for environmental mitigation or environmental response actions related to the Great Salt Lake, per Utah Code § 19-1-603(4).

GENERAL PROVISIONS

1. The Parties recognize that this Agreement has been negotiated in good faith and nothing herein constitutes an admission of any liability. SDSL 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. SDSL further agrees it will not contest the basis or validity of this Order or its terms.
2. The violations described herein will constitute part of SDSL’s compliance history where such history is relevant, including any subsequent violations. SDSL understands and

agrees that this Agreement is not and cannot be raised as a defense to any other action to enforce any federal, state or local law.

3. SDSD agrees to the terms, conditions and requirements of this Order. By signing this Order, SDSD understands, acknowledges and agrees that it waives: (1) the opportunity for an administrative hearing pursuant to Utah Code § 19-1-301; (2) the right to contest the findings in the NOV/CO; and (3) the opportunity for judicial review.
4. This Agreement is subject to a thirty (30) day notice and comment period. The Parties each reserve the right to withdraw from this Agreement if comments received during the notice period result in a modification to the terms and conditions.
5. The “Effective Date” shall be the date this Order is executed by the Director. The Director will not sign the Order until after the Division has provided public notice of the proposed Order and has solicited and reviewed any public comments received.
6. 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. *See* 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 Order will be presented to the Board for final action 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.
7. 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 SDSD’s showing of good cause. Good cause for an extension generally means events outside of the reasonable control of the SDSD, such as force majeure, inclement weather, contractor or supplier delays, and similar circumstances. However, the Director expects the SDSD to employ reasonable means to limit foreseeable causes of delay. The timeliness of the SDSD’s request for an extension shall constitute an important factor in the Director’s evaluation.
8. Nothing in this Order shall preclude the Director from taking actions to include additional penalties against the SDSD for future violations of State or Federal law.
9. 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.
10. The person signing this Order on behalf of the SDSD represents to the Director that they have the full legal authorization to do so and agrees that the Director may rely on that representation.
11. This Agreement is binding upon each of the Parties and their respective heirs, successors, and assigns. Any change in ownership or corporate or legal status, including but not

limited to, any transfer of assets or real or personal property, shall in no way alter the status or responsibilities of the parties under this Agreement.

12. This Order may be amended, in writing, if signed by both Parties.

COMPLIANCE AND PENALTY NOTICE

As of the Effective Date, this Order shall constitute a final administrative order. Compliance with the provisions of this Order is mandatory. All violations of the Act, the Water Quality Rules, and this Order will be strictly enforced during the time that this Order remains in effect. The Act, Utah Code § 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, P.E.
Director

Date: _____ (Effective Date)

FOR SOUTH DAVIS SEWER DISTRICT

By:  _____
Digitally signed by
Matthew Myers
Date: 2023.12.08 14:35:38
-07'00'

Title: General Manager

Date: December 8, 2023