

Official Draft Public Notice Version **March 1, 2024**

The findings, determinations, and assertions contained in this document are not final and subject to change following the public comment period.

**General Permit No. UTG040000**

STATE OF UTAH  
DEPARTMENT OF ENVIRONMENTAL QUALITY  
DIVISION OF WATER QUALITY

AUTHORIZATION TO DISCHARGE UNDER THE  
UTAH POLLUTANT DISCHARGE ELIMINATION SYSTEM  
("UPDES")

GENERAL PERMIT FOR COAL MINE OPERATIONS

In compliance with provisions of the *Utah Water Quality Act, Title 19, Chapter 5, Utah Code Annotated ("UCA") 1953, as amended* (the "Act"), the coal company identified in the application (Notice of Intent) is authorized to discharge to Waters of the State, as defined by *Utah Admin. Code R317-1-1*, as identified in the application in accordance with discharge point(s), effluent limitations, monitoring requirements and other conditions as set forth herein.

This permit shall become effective on April 1, 2024.

This general permit shall expire at midnight, March 31, 2029.

Signed this 1st day of April 2019.

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John K. Mackey P.E.  
Director

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PUBLIC NOTICE DRAFT

**I. EFFLUENT LIMITATIONS AND MONITORING REQUIREMENTS**

A. Coverage Under the General Permit.

This general permit shall apply only to discharge points that discharge treated wastewater from coal mining operations, either new or existing, in Utah, which include or will include in part, or in whole, alkaline mine water drainage, storm water runoff from coal preparation plant associated areas, active mining areas, and post mining areas until the performance bond is released.

B. Notice of Intent for a General Permit for Coal Mining.

Any facility that desires coverage under this general permit for coal mining and meets the requirements of *Part I.A* may be issued general permit coverage by submitting a Notice of Intent (NOI) to the Division of Water Quality. A copy of the NOI can be obtained from the Utah Division of Water Quality. Unless notified by the *Director* to the contrary, owners or operators who submit such notification are authorized immediately to discharge those waters identified in *Part I.A* under the terms and conditions of this permit after the NOI is received by the *Director*. Pursuant to Utah Admin. Code R317-8-2.5(c), the *Director* may, at any time, deny a facility coverage under this general permit and require a facility to submit to the Division of Water Quality an application for an individual UPDES permit. Persons who have submitted an NOI to the Division of Water Quality, and who the *Director* has not denied coverage, are referred to herein as "Permittees."

C. Description of Discharge Point(s).

Authorization to discharge wastewater provided under this part is limited to those outfalls specifically designated below as Discharge Points. Discharges at any location not authorized under a UPDES permit are violations of the Act and may be subject to administrative and civil enforcement, and penalties under the Act. Knowingly discharging from an unauthorized location or failing to report an unauthorized discharge may be subject to criminal penalties as provided under the Act.

Outfall Number

001 (example)

Location of Discharge Point(s)

(Narrative description of the location of each outfall – plus the longitude and latitude of each outfall from the NOI.)

D. Narrative Standard.

It shall be a violation of this permit, for the Permittee to discharge wastewater or place any waste, pollutant, or other substance in Waters of the State in such a way that is or may become offensive, such as unnatural deposits, floating debris, oil, scum, or other nuisances, such as color, odor or taste; or cause conditions which produce undesirable aquatic life or objectionable tastes in edible aquatic organisms; or result in concentrations or combinations of substances which produce objectionable effects in aquatic life, or impact human health and safety, as determined by a bioassay or other tests performed in accordance with standard procedures.

E. Specific Limitations and Self-Monitoring Requirements.

Effective immediately and lasting the duration of this permit, the Permittee is authorized to discharge from all Outfall(s). Such discharges shall be limited and monitored by the Permittee as specified below:

Parameter (Units)	Effluent Limitations <sup>1</sup>			Monitoring Requirements	
	30-Day Average	Daily Minimum	Daily Maximum	Sample Frequency	Sample Type
Total Flow (Million Gallons Per Day)	1.0	--	Report	Monthly	Measured <sup>2</sup>
Total Suspended Solids (mg/L)	--	--	70	Monthly	Grab <sup>3</sup>
Total Iron (mg/L)	--	--	1.0	Monthly	Grab <sup>3</sup>
Oil & Grease (mg/L) <sup>4</sup>	--	--	10	Monthly	Visual
Total Dissolved Solids (mg/L)	--	--	Report	Monthly	Grab <sup>3</sup>
Total Dissolved Solids (tons/day) <sup>5</sup>	--	--	1.0	Monthly	Grab <sup>3</sup>
pH (standard units)	--	6.5	9.0	Monthly	Grab <sup>3</sup>
Sanitary Waste <sup>6</sup>	--	--	None	Monthly	Visual
Oil and Grease, Floating Solids, Visible Foam	--	--	None	Monthly	Visual

<sup>1</sup>. See Definitions, Part VI for definition of terms.

<sup>2</sup>. For intermittent discharge, the duration of the discharge shall also be reported

<sup>3</sup>. These samples may also be a composite sample:

- <sup>a</sup>. Samples taken in compliance with the monitoring requirements specified above shall be taken at the following location(s): in the final effluent before mixing with any receiving waters;
- <sup>b</sup>. For discharges composed of surface water or mine water commingled with surface water, 40 C.F.R. Part 434.63 allows alternate effluent limits to be applied when discharges result from specific runoff events, detailed below;  
For runoff events (rainfall or snowmelt) less than or equal to a 10-year 24-hour precipitation event, settleable solids may be substituted for TSS and shall be limited to 0.5 milliliters per liter (ml/L). All other effluent limitations must be achieved concurrently, as described in the permit;
- <sup>c</sup>. The operator shall have the burden of proof that the discharge or increase in discharge was caused by the applicable precipitation event described in Parts I.E.3 and 4. The alternate limitations in Parts I.E.3 and 4 shall not apply to treatment systems that treat underground mine water only;
- <sup>d</sup>. Additional monitoring shall be required for facilities that discharge into waters or watersheds on the Utah 303(d) list of impaired waters. These facilities shall be required to monitor for the pollutant(s) that cause the impairment for these waters. The Division of Water Quality will incorporate any additional sampling requirements for parameters of concern.

4. A visual inspection for oil and grease, floating solids, and visible foam shall be performed monthly. There shall be no sheen, floating solids, or visible foam in other than trace amounts. If sheen is observed, a sample of the effluent shall be collected immediately thereafter and oil and grease shall not exceed 10 mg/L in concentration.
5. No tons per day loading limit will be applied at a specific Outfall if the concentration of TDS in the discharge is equal to or less than 500 mg/L. However, if the TDS concentration exceeds 500 mg/L at any Outfall, then the permittee cannot discharge more than 1 ton per day (or 366 tons per year) as a sum from all discharge points exceeding 500 mg/L. If the permittee cannot achieve one ton per day (or 366 tons per year) as a sum from all applicable Outfalls, the permittee will be required to account for the excess salinity/TDS tonnage by developing a treatment process, participating in a salinity-offset program, or other type of mechanism to remove or offset the excess salinity/TDS. The selection of a salinity control program, or other type of treatment process, must be approved by the Director. If the permittee cannot adhere to the TDS limits and requirements mentioned in this paragraph, the permittee shall be required to obtain an individual UPDES permit upon determination by the Director.
6. There shall be no discharge of sanitary waste and visual observations shall be performed at least monthly to verify that no such discharges occur.

F. Reporting of Monitoring Results.

Monitoring results obtained by the Permittee during the previous month shall be summarized by the Permittee and submitted by NetDMR to the Division of Water Quality no later than the 28<sup>th</sup> day of the month following the completed reporting period. The first report is due on the 28<sup>th</sup> day of the month following the Permittee's submission of the NOI, or for existing Coal Mine Operations covered by this permit, May 28, 2024. If no discharge occurs during the reporting period, the Permittee shall report "no discharge." Legible copies of these, and all other reports, shall be signed and certified in accordance with *Part V.G.*, and submitted by NetDMR.

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PUBLIC NOTICE DRAFT

**II. STORM WATER REQUIREMENTS**

A. Industrial Storm Water Permit.

Based on the type of industrial activities occurring at the Permittee's facility, the Permittee is required to maintain separate permit coverage or an appropriate exclusion under the Multi-Sector General Permit for Storm Water Discharges Associated with Industrial Activities (UTR000000) ("MSGP"). If the Permittee's facility is not already covered, the Permittee has 30 days from when this permit is issued to submit the appropriate NOI for the MSGP or exclusion documentation.

B. Construction Storm Water Permit.

Any non-mining construction at the Permittee's facility that disturbs an acre or more of land, including less than an acre if it is part of a common plan of development or sale, is required to obtain coverage under the UPDES Construction General Storm Water Permit (UTRC00000). Non-mining construction is not related to the excavation of material for the purposes of mining, and typically includes construction of parking lots, buildings, paved or permanent roads, utilities, etc. The Permittee must obtain coverage prior to land disturbance. If the site qualifies, the Permittee may submit a Low Erosivity Waiver (LEW) Certification instead of a request for construction storm water permit coverage.

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### III. MONITORING, RECORDING & GENERAL REPORTING REQUIREMENTS

#### A. Representative Sampling.

The Permittee shall collect samples, taken in compliance with the monitoring requirements established under *Part I*, from the effluent stream prior to discharge into Waters of the State. Samples and measurements shall be representative of the volume and nature of the monitored discharge.

#### B. Monitoring Procedures.

Monitoring must be conducted according to test procedures approved under Utah Admin. Code R317-2-10, R317-8-4.1(10)(d), and/or 40 C.F.R. § 503 utilizing sufficiently sensitive test methods unless other test procedures have been specified in this permit. Monitoring must be conducted according to the test procedures listed above unless another method is required under 40 C.F.R. Chapter I, subchapters N or O. Sufficiently sensitive test method means: (1) The method minimum level (ML) is at or below the level of the effluent limit established in the permit for the measured pollutant or pollutant parameter; or (2) The method has the lowest ML of the analytical methods approved under 40 C.F.R. § 136 or required under 40 C.F.R. Chapter I, subchapter N or O for the measured pollutant or pollutant parameter as per 40 C.F.R. 122.44(i)(1)(iv)(A).

#### C. Penalties for Tampering.

Section 19-5-115(4) of the Act provides that any person who falsifies, tampers with, or knowingly renders inaccurate, any monitoring device or method required to be maintained under this permit shall, upon conviction, be punished by a fine of not more than \$10,000 per day of violation, or by imprisonment for not more than six months per violation, or by both.

#### D. Compliance Schedules.

Reports of compliance or noncompliance with, or any progress reports on, interim and final requirements contained in any Compliance Schedule of this permit shall be submitted no later than 14 days following each schedule date.

#### E. Additional Monitoring by the Permittee.

If the permittee monitors any parameter more frequently than required by this permit, using test procedures approved under Permit Part III.B., the results of this monitoring shall be included in the calculation and reporting of the data submitted in the DMR.

#### F. Records Contents.

Records of monitoring information shall include:

1. The date, exact place, and time of sampling or measurements;
2. The individual(s) who performed the sampling or measurements;
3. The date(s) and time(s) analyses were performed;
4. The individual(s) who performed the analyses;
5. The analytical techniques or methods used; and
6. The results of such analyses.

#### G. Retention of Records.

The permittee shall retain records of all monitoring information, including all calibration and maintenance records and all original strip chart recordings for continuous monitoring instrumentation, copies of all reports required by this permit, and records of all data used to

complete the application for this permit, for a period of at least five (5) years from the date of the sample, measurement, report, or application. This period may be extended by request of the Director at any time. A copy of this UPDES permit must be maintained on site during the duration of activity at the permitted location.

H. Twenty-Four Hour Notice of Noncompliance Reporting.

1. In accordance with Utah Admin. Code R317-8-4. the Permittee shall (orally) report any noncompliance which may endanger health or the environment, including transportation accidents, spills, and uncontrolled runoff from biosolids transfer or land application sites, as soon as possible, but no later than twenty-four (24) hours from the time the Permittee first became aware of circumstances. The report shall be made to the Division of Water Quality via the 24-hour answering service: (801) 536-4123.
2. The following occurrences of noncompliance shall be reported by telephone ((801) 536-4300) as soon as possible but no later than twenty-four (24) hours from the time the permittee becomes aware of the circumstances:
  - a. Any noncompliance which may endanger health or the environment;
  - b. Any unanticipated bypass, which exceeds any effluent limitation in the permit (*See Part IV.G, Bypass of Treatment Facilities*);
  - c. Any upset which exceeds any effluent limitation in the permit (*See Part IV.H, Upset Conditions*);
  - d. Violation of a daily discharge limitation for any of the pollutants listed in the permit; For other permit violations which will not endanger health or the environment, Division of Water Quality may otherwise be notified during business hours (801) 536-4300.
3. A written submission shall also be provided within five (5) days of the time that the permittee becomes aware of the circumstances. The written submission shall contain:
  - a. A description of the noncompliance and its cause;
  - b. The period of noncompliance, including exact dates and times;
  - c. The estimated time noncompliance is expected to continue if it has not been corrected;
  - d. Steps taken or planned to reduce, eliminate, and prevent reoccurrence of the noncompliance; and
  - e. Steps taken, if any, to mitigate the adverse impacts on the environment and human health during the noncompliance period.
4. The Director may waive the written report on a case-by-case basis if the oral report has been received within 24 hours by the Division of Water Quality, (801) 536-4300.
5. Reports shall be submitted to the addresses in *Part I.D, Reporting of Monitoring Results*.

I. Other Noncompliance Reporting.

Instances of noncompliance not required to be reported within twenty-four (24) hours shall be reported at the time that monitoring reports for *Part I.D* are submitted. The reports shall contain the information listed in *Part III.H.3*.

J. Entry and Inspection.

The Permittee shall allow the Director, or an authorized representative, (including an authorized contractor inspecting and entering as a representative of the Director), upon the presentation of credentials and other documents as may be required by law, to:

1. Enter upon the Permittee's premises where a regulated facility or activity is located or conducted, or where records must be kept under the conditions of the permit;
2. Have access to and copy, at reasonable times, any records that must be kept under the conditions of this permit;
3. Inspect at reasonable times any facilities, equipment (including monitoring and control equipment), practices, or operations regulated or required under this permit, including but not limited to storage facilities or areas and transport vehicles and containers;
4. Sample or monitor at reasonable times, for the purpose of assuring permit compliance or as otherwise authorized by the Act, any substances or parameters at any location, including, but not limited to any ground or surface waters; and
5. The Permittee shall obtain permission or clearance from the landowner or leaseholder, if the landowner is someone other than the Permittee, to permit the Director, or authorized representative, to access the permitted facilities and activities for entry and inspection. The Permittee shall make necessary arrangements with any legally interested parties so as to permit the Director, or authorized representative, to enter and inspect without delay.

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#### IV. COMPLIANCE RESPONSIBILITIES

##### A. Duty to Comply.

The Permittee must comply with all conditions of this permit. Any permit noncompliance constitutes a violation of the Act and is grounds for administrative and civil enforcement action; for permit termination, revocation and reissuance, or modification; or for denial of a permit renewal application. The Permittee shall give sufficient advance notice to the Director of any planned changes in the permitted facility or activity, which may result in noncompliance with permit requirements, so as to provide the Director with adequate time to review the changes and potentially appropriate remedies.

##### B. Penalties for Violations of Permit Conditions.

Section 19-5-115 of the Act provides that any person who violates a permit condition, rule, or order implementing provisions of the Act is subject to a civil penalty not to exceed \$10,000 per day of violation. Except as provided at *Part IV.G, Bypass a/Treatment Facilities* and *Part IV.H, Upset Conditions*, nothing in this permit shall be construed to relieve the permittee of the civil or criminal penalties for noncompliance.

##### C. Need to Halt or Reduce Activity not a Defense.

It shall not be a defense for a Permittee in an enforcement action that it would have been necessary to halt or reduce the permitted activity in order to maintain compliance with the conditions of this permit.

##### D. Duty to Mitigate.

The Permittee shall take all reasonable steps to minimize or prevent any discharge in violation of this permit, which has a reasonable likelihood of adversely affecting human health, safety or the environment.

##### E. Proper Operation and Maintenance.

The Permittee shall at all times properly operate and maintain all facilities and systems of treatment and control (and related appurtenances) which are installed or used by the Permittee to achieve compliance with the conditions of this permit. Proper operation and maintenance includes adequate laboratory controls and quality assurance procedures. This provision requires the operation of back-up or auxiliary facilities or similar systems, which are installed by a Permittee only when the operation is necessary to achieve compliance with the conditions of the permit.

##### F. Removed Substances.

Collected screening, grit, solids, or other pollutants removed in the course of treatment of waste or industrial products shall be disposed of in such a manner so as to prevent any pollutant from entering any Waters of the State or creating adverse impacts on human health, safety, or the environment.

##### G. Bypass of Treatment Facilities.

1. Bypass Not Exceeding Limitations. The Permittee may allow any bypass to occur which does not cause the Permittee to exceed its permitted effluent limitations, but only if it also is for essential maintenance to assure efficient operation. These bypasses are not subject to paragraph 2 and 3 of this section.

2. Prohibition of Bypass.

- a. In accordance with Utah Admin. Code R317-8-4.1, bypass is prohibited, and the Director may take enforcement action against a Permittee for bypass, unless:
- (1) Bypass was unavoidable to prevent loss of human life, personal injury, or severe property damage;
  - (2) There were no feasible alternatives to bypass, such as the use of auxiliary treatment facilities, retention of untreated wastes, or maintenance during normal periods of equipment downtime. This condition is not satisfied if adequate backup equipment should have been installed in the exercise of reasonable engineering judgement to prevent a bypass which occurred during normal periods of equipment downtime or preventive maintenance, and
  - (3) The permittee submitted notices as required under Part IVG.3.
- b. The Director may approve an anticipated bypass, after considering its adverse effects, if the Director determines that it will meet the conditions listed in Parts IVG.2.a (1), (2) and (3).

3. Notice.

- a. *Anticipated bypass.* Except as provided above in section IVG.2 and below in section V.G.3.b, if the permittee knows in advance of the need for a bypass, it shall submit prior notice, at least ninety (90) days before the date of bypass. The prior notice shall include the following unless otherwise waived by the Director:
- (1) Evaluation of alternative to bypass, including cost-benefit analysis containing an assessment of anticipated resource damages;
  - (2) A specific bypass plan describing the work to be performed including scheduled dates and times. The Permittee must notify the Director in advance of any changes to the bypass schedule;
  - (3) Description of specific measures to be taken to minimize environmental and public health impacts;
  - (4) A notification plan sufficient to alert all downstream users, the public and others reasonably expected to be impacted by the bypass;
  - (5) A water quality assessment plan to include sufficient monitoring of the receiving water before, during and following the bypass to enable evaluation of public health risks and environmental impacts; and
  - (6) Any additional information requested by the Director.
- b. *Emergency Bypass.* Where ninety (90) days advance notice is not possible, the Permittee must notify the Director, and the director of the Department of Natural Resources, as soon as it becomes aware of the need to bypass and provide to the Director the information in section IVG.3.a.(1) through (6) to the extent practicable.
- c. *Unanticipated bypass.* The Permittee shall submit notice of an unanticipated bypass to the Director as required under *Part IVH, Twenty-Four Hour Reporting*. The Permittee shall also immediately notify the director of the Department of Natural Resources, the public and downstream users through means reasonably calculated to provide adequate advance notice of the unanticipated bypass, and shall implement measures to minimize impacts to public health, safety and environment to the extent feasible. The Permittee shall use means reasonably calculated to provide adequate notice.

H. Upset Conditions.

1. Effect of an Upset. An upset constitutes an affirmative defense to an action brought for noncompliance with technology-based permit effluent limitations if the requirements of paragraph 2 of this section are met. Director's administrative determination regarding a claim of Upset cannot be judiciously challenged by the permittee until such time as an action is initiated for noncompliance.
2. Conditions necessary for a demonstration of Upset. A Permittee who wishes to establish the affirmative defense of Upset shall demonstrate, through properly signed, contemporaneous operating logs, or other relevant evidence that:
  - a. An Upset occurred and that the Permittee can identify the cause(s) of the Upset;
  - b. The Permitted facility was at the time being properly operated;
  - c. The Permittee submitted notice of the Upset as required under *Part IIIH, Twenty-four Hour Notice of Noncompliance Reporting*; and
  - d. The Permittee complied with any remedial measures required under *Part IV.D, Duty to Mitigate*.
3. Burden of proof. In any enforcement proceeding, the permittee seeking to establish the occurrence of an Upset has the burden of proof.

I. Toxic Pollutants.

The permittee shall comply with effluent standards or prohibitions established under 33 U.S.C. § 1317, ((Section 307(a), *The Water Quality Act of 1987*) for toxic pollutants within the time provided in the regulations that establish those standards or prohibitions, even if the permit has not yet been modified to incorporate the requirement.

J. Changes in Discharge of Toxic Substances.

The Permittee shall provide notification to the Director as soon as the Permittee knows of, or has reason to believe:

1. That any activity has occurred or will occur which would result in the discharge, on a routine or frequent basis, of any toxic pollutant which is not limited in the permit, if that discharge will exceed the highest of the following "notification levels":
  - a. One hundred micrograms per liter (100 ug/L);
  - b. Two hundred micrograms per liter (200 ug/L) for acrolein and acrylonitrile; five hundred micrograms per liter (500 ug/L) for 2,4-dinitrophenol and for 2-methyl-4, 6-dinitrophenol; and one milligram per liter (1 mg/L) for antimony;
  - c. Five (5) times the maximum concentration value reported for that pollutant in the permit application in accordance with Utah Admin. Code R317-8-3.4(7) or (10); or
  - d. The level established by the Director in accordance with Utah Admin. Code R317-8-4.2(6).
2. That any activity has occurred or will occur which would result in any discharge, on a nonroutine or infrequent basis, of a toxic pollutant which is not limited in the permit, if that discharge will exceed the highest of the following "notification levels":
  - a. Five hundred micrograms per liter (500 ug/L);
  - b. One milligram per liter (1 mg/L) for antimony;

- c. Ten (10) times the maximum concentration value reported for that pollutant in the permit application in accordance with Utah Admin. Code R317-8-3.4(9); or
- d. The level established by the Director in accordance with Utah Admin. Code R317-8-4.2(6).

K. Industrial Pretreatment.

1. Discharges to a Publicly Owned Treatment Works (“POTW”). Any process wastewater that the facility may discharge to the sanitary sewer, either as a direct discharge or as a hauled waste, is subject to Federal, State and local pretreatment regulations. Pursuant to Section 307 of Clean Water Act, the Permittee shall comply with all applicable Federal General Pretreatment Regulations promulgated, found in *40 C.F.R. § 403*, the State Pretreatment Requirements found in Utah Admin. Code R317-8-8, and any specific local discharge limitations developed by the Publicly Owned Treatment Works (POTW) accepting the waste.
2. Hazardous Waste Requirements. In accordance with *40 C.F.R. § 403.12(p)(l)*, the permittee must notify the POTW, the EPA Regional Waste Management Director, and the State hazardous waste authorities, in writing, if they discharge any substance into a POTW which if otherwise disposed of would be considered a hazardous waste under *40 C.F.R. § 261*. This notification must include the name of the hazardous waste, the EPA hazardous waste number, and the type of discharge (continuous or batch).
3. Hauled Hazardous Waste. The Permittee shall not discharge hauled hazardous to a POTW without first notifying the Division of Water Quality.

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**V. GENERAL REQUIREMENTS**

A. Planned Changes.

The Permittee shall give notice to the Director as soon as possible of any planned physical alterations or additions to the permitted facility. Notice is required only when:

1. The alteration or addition to a permitted facility may meet one of the criteria for determining whether a facility is a new source in 40 C.F.R. 122.29(b); or
2. The alteration or addition could significantly change the nature or increase the quantity of pollutants discharged. This notification applies to pollutants which are subject neither to effluent limitations in the permit nor to notification requirements under Utah Admin. Code R317-8-4.1(15).

B. Permit Actions.

This permit may be modified, revoked and reissued, or terminated for cause. The filing of a request by the Permittee for a permit modification, revocation and reissuance, or termination, or a notification of planned changes or anticipated noncompliance, does not stay any permit condition.

C. Duty to Reapply.

If the Permittee wishes to continue an activity regulated by this permit after the expiration date of this permit, the Permittee shall apply for and obtain a new permit. The application shall be submitted at least 180 days before the expiration date of this permit.

D. Duty to Provide Information.

The Permittee shall furnish to the Director, within a reasonable time, any information which the Director may request to determine whether cause exists for modifying, revoking and reissuing, or terminating this permit, or to determine compliance with this permit. The Permittee shall also furnish to the Director, upon request, copies of records required to be kept by this permit.

E. Other Information.

When the Permittee becomes aware that it failed to submit any relevant facts in a permit application, or submitted incorrect information in a permit application or any report to the Director, it shall promptly submit such facts or information.

F. Signatory Requirements.

All applications, reports or information submitted to the Director shall be signed and certified.

1. All permit applications shall be signed by either a principal executive officer, ranking elected official or duly authorized representative of the signatory. A person is a duly authorized representative only if:
  - a. The authorization is made in writing by a person described above and submitted to the Director, and
  - b. The authorization specifies either an individual or a position having responsibility for the overall operation of the regulated facility, such as the position of plant manager, superintendent, position of equivalent responsibility, or an individual or position having overall responsibility for environmental matters. A duly authorized representative may thus be either a named individual or any individual occupying a named position.



- (1) For a corporation. By a responsible corporate officer. For the purpose of this section, a responsible corporate officer means:
    - (a) A president, secretary, treasurer, vice-president or officer of the corporation in charge of a principal business function, or any other person who performs similar policy- or decision-making functions for the corporation; or,
    - (b) the manager of one or more manufacturing, production, or operating facilities, provided, the manager is authorized to make management decisions which govern the operation of the regulated facility including having the explicit or implicit duty of making major capital investment recommendations, and initiating and directing other comprehensive measures to assure long term environmental compliance with environmental laws and regulations; the manager can ensure that the necessary systems are established or actions taken to gather complete and accurate information for permit application requirements; and where authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures
  - (2) For a partnership or sole proprietorship. By a general partner or the proprietor, respectively; or
  - (3) For a municipality, State, Federal, or other public agency. By either a principal executive officer or ranking elected official. For purposes of this section, a principal executive officer of a Federal agency includes:
    - (a) The chief executive officer of the agency, or
    - (b) a senior executive officer having responsibility for the overall operations of a principal geographic unit of the agency (e.g., Regional Administrators of EPA).
2. All reports required by the permit and other information requested by the Director shall be signed by a person described above or by a duly authorized representative of that person.
  3. Changes to authorization. If an authorization under *Part V.G.2* is no longer accurate because a different individual or position has responsibility for the overall operation of the facility, a new authorization satisfying the requirements of *Part V.G.2* must be submitted to the Director prior to or together with any reports, information, or applications to be signed by an authorized representative.
  4. Certification. Any person signing a document under this section shall make the following certification:

"I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant criminal and civil penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

G. Penalties for Falsification of Reports.

Section 19-5-115(4) of the Act provides that any person who knowingly makes any false statement, representation, or certification in any record or other document submitted or required to be maintained under this permit, including monitoring reports or reports of compliance or

noncompliance shall, upon conviction be punished by a fine of not more than \$10,000.00 per day of violation, or by imprisonment for not more than six months per violation, or by both.

H. Availability of Reports.

Except for data determined to be confidential under *UAC R317-8-3.2*, all reports prepared in accordance with the terms of this permit shall be available for public inspection at the office of Director. As required by the Act, permit applications, permits and effluent data shall not be considered confidential.

I. Oil and Hazardous Substance Liability.

Nothing in this permit shall be construed to preclude the permittee of any legal action or relieve the permittee from any responsibilities, liabilities, or penalties to which the permittee is or may be subject under the Act.

J. Property Rights.

The issuance of this permit does not convey any property rights of any sort, or any exclusive privileges, nor does it authorize any injury to private property or any invasion of personal rights, nor any infringement of federal, state or local laws or regulations.

K. Severability.

The provisions of this permit are severable, and if any provisions of this permit, or the application of any provision of this permit to any circumstance, is held invalid, the application of such provision to other circumstances, and the remainder of this permit, shall not be affected thereby.

L. Transfers.

This permit may be automatically transferred to a new permittee if:

1. The current permittee notifies the Director at least 20 days in advance of the proposed transfer date;
2. The notice includes a written agreement between the existing and new permittee's containing a specific date for transfer of permit responsibility, coverage, and liability between them; and
3. The Director does not notify the existing permittee and the proposed new permittee of his or her intent to modify, or revoke and reissue the permit. If this notice is not received, the transfer is effective on the date specified in the agreement mentioned in paragraph 2 above.

M. State or Federal Laws.

Nothing in this permit shall be construed to preclude the institution of any legal action or relieve the Permittee from any responsibilities, liabilities, or penalties established pursuant to any applicable state law or regulation under authority preserved by Sections 19-5-117 and 510 of the Clean Water Act or any applicable Federal or State transportation regulations, such as but not limited to the Department of Transportation regulations.

N. Water Quality – Reopener Provision.

This permit may be reopened and modified (following proper administrative procedures) to include the appropriate effluent limitations and compliance schedule, if necessary, if one or more of the following events occurs:

1. Water Quality Standards for the receiving water(s) to which the permittee discharges are modified in such a manner as to require different effluent limits than contained in this permit.
2. A final wasteload allocation is developed and approved by the State and/or EPA for incorporation in this permit.
3. Revisions to the current CWA § 208 areawide treatment management plans or promulgations/revisions to TMDLs (*40 C.F.R. 130.7*) approved by the EPA and adopted by DWQ which calls for different effluent limitations than contained in this permit.

O. Toxicity Limitation – Reopener Provision.

This permit may be reopened and modified (following proper administrative procedures) to include WET testing, a WET limitation, a compliance schedule, a compliance date, additional or modified numerical limitations, or any other conditions related to the control of toxicants if toxicity is detected during the life of this permit.

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**VI. DEFINITIONS**

- A. "Act," means the Utah Water Quality Act.
- B. "Best Management Practices" ("BMPs") means schedules of activities, prohibitions of practices, maintenance procedures, and other management practices to prevent or reduce the pollution of waters of the State. BMPs also include treatment requirements, operating procedures, and practices to control facility site runoff, spillage or leaks, waste disposal, or drainage from raw material storage.
- C. "Bypass," means the diversion of waste streams from any portion of a treatment facility.
- D. "Coal Mining Operations" means
- E. "Coal pile runoff" means the rainfall runoff from or through any coal storage pile.
- F. "CWA," means The Federal Water Pollution Control Act, as amended, by The Clean Water Act of 1987.
- G. "Daily Maximum" (Daily Max.) is the maximum value allowable in any single sample or instantaneous measurement.
- H. "Discharge Point" means any discharge from a point source.
- I. "EPA," means the United States Environmental Protection Agency.
- J. "Director," means Director of the Division of Water Quality.
- K. A "grab" sample, for monitoring requirements, is defined as a single "dip and take" sample collected at a representative point in the discharge stream.
- L. An "instantaneous" measurement, for monitoring requirements, is defined as a single reading, observation, or measurement.
- M. "NOI" means "notice of intent"; it is an application form that is used to obtain coverage under the General Multi-Sector Permit for Storm Water Discharges Associated with Industrial Activity.
- N. "NOT" means "notice of termination"; it is a form used to terminate coverage under the General Multi-Sector Permit for Storm Water Discharges Associated with Industrial Activity.
- O. "Outfall" – see Discharge Point.
- P. "Point source" means any discernible, confined, and discrete conveyance, including but not limited to, any pipe, ditch, channel, tunnel, conduit, well, discrete fissure, container, rolling stock, concentrated animal feeding operation, landfill leachate collection system, vessel or other floating craft from which pollutants are or may be discharged. This term does not include return flows from irrigated agriculture or agricultural storm water runoff.
- Q. "POTW" means Publicly Owned Treatment Works; it means a treatment works as defined by section 212 of the Act, which is owned by a State or municipality (as defined by section 502(4) of the Act). This definition includes any devices and systems used in the storage, treatment, recycling and reclamation of municipal sewage or industrial wastes of a liquid nature. It also includes sewers, pipes and other conveyances only if they convey wastewater to a POTW Treatment Plant. The term also means the municipality as defined in section 502(4) of the Act, which has jurisdiction over the Indirect Discharges to and the discharges from such a treatment works.
- R. "Section 313 water priority chemical" means a chemical or chemical category that:

1. Are listed at 40 C.F.R. 372.65 pursuant to Section 313 of the Emergency Planning and Community Right-to-Know Act (EPCRA) (also known as Title III of the Superfund Amendments and Reauthorization Act (SARA) of 1986);
  2. Are present at or above threshold levels at a facility subject to EPCRA Section 313 reporting requirements; and
  3. Meet at least one of the following criteria:
    - a. Are listed in Appendix D of 40 C.F.R. Part 122 on either Table II (organic priority pollutants), Table III (certain metals, cyanides, and phenols) or Table V (certain toxic pollutants and hazardous substances);
    - b. Are listed as a hazardous substance pursuant to Section 3JJ(b)(2)(A) of the CWA at 40 C.F.R. 116.4; or
    - c. Are pollutants for which EPA has published acute or chronic water quality criteria. See Appendix III of this permit. This appendix was revised based on final rulemaking EPA published in the Federal Register November 30, 1994.
- S. "Severe Property Damage," means substantial physical damage to property, damage to the treatment facilities which causes them to become inoperable, or substantial and permanent loss of natural resources which can reasonably be expected to occur in the absence of a bypass. Severe property damage does not mean economic loss caused by delays in production.
- T. "Significant materials" includes, but is not limited to: raw materials; fuels; materials such as solvents, detergents, and plastic pellets; finished materials such as metallic products; raw materials used in food processing or production; hazardous substances designated under Section 101(14) of CERCLA; any chemical the facility is required to report pursuant to EPCRA Section 313; fertilizers; pesticides; and waste products such as ashes and slag that have the potential to be released with storm water discharges.
- U. "Significant spills" includes but is not limited to: releases of oil or hazardous substances in excess of reportable quantities under Section 311 of the Clean Water Act (see 40 C.F.R. 110.10 and C.F.R. 117.21) or Section 102 of CERCLA (see 40 C.F.R. 302.4).
- V. "Storm water" means storm water runoff, snowmelt runoff, and surface runoff and drainage.
- W. "Storm water discharge associated with industrial activity" means the discharge from any conveyance which is directly related to manufacturing, processing, or raw materials storage areas at an industrial plant. The term does not include discharges from facilities or activities excluded from the UPDES program. See Utah Admin. Code R317-8-3.9(6)(c) and (d) for provisions applicable to this definition.
- X. "SWDMR" means "storm water discharge monitoring report"; a report of the results of storm water monitoring required by the permit. The Division of Water Quality provides the storm water discharge monitoring report form.
- Y. "Upset," means an exceptional incident in which there is unintentional and temporary noncompliance with technology-based permit effluent limitations because of factors beyond the reasonable control of the permittee. An upset does not include noncompliance to the extent caused by operational error, improperly designed treatment facilities, inadequate treatment facilities, lack of preventative maintenance, or careless or improper operation.
- Z. "Waste pile" means any non-containerized accumulation of solid, non-flowing waste that is used for treatment or storage.

- AA. "Waters of the state" means all streams, lakes, ponds, marshes, water-courses, waterways, wells, springs, irrigation systems, drainage systems, and all other bodies or accumulations of water, surface and underground, natural or artificial, public or private, which are contained within, flow through, or border upon this state or any portion thereof, except that bodies of water confined to and retained within the limits of private property, and which do not develop into or constitute a nuisance, or a public health hazard, or a menace to fish and wildlife, shall not be considered to be "waters of the state" under this definition.

PUBLIC NOTICE DRAFT