



State of Utah

GARY R. HERBERT
Governor

SPENCER J. COX
Lieutenant Governor

Department of
Environmental Quality

Amanda Smith
Executive Director

DIVISION OF WATER QUALITY
Walter L. Baker, P.E.
Director

MAY 14 2014

**CERTIFIED MAIL
(Return Receipt Requested)**

Robert Chamberlain, President
Chamberlain Investment Company
8140 North Highway 38
Honeyville, UT 84103

Dear Mr. Chamberlain:

Subject: UPDES Permit UT0025739, Chamberlain Investment Company

Enclosed is a draft copy of the UPDES Permit No. UT0025739, the Statement of Basis, and the Public Notice for your facility. This information will also be made available on-line at <http://www.waterquality.utah.gov/PublicParticipation/index.htm>

If you have any questions with regards to this matter, please contact Dave Wham at (801) 536-4337.

Sincerely,

John Kennington, P.E., Manager
UPDES Engineering Section

JK:DW:EV:pe

- Enclosures (5):
1. Letter to the Newspaper (DWQ-2014-006469)
 2. Public Notice (DWQ-2014-006469)
 3. Draft FSSOB (DWQ-2014-004663)
 4. Waste Load Analysis (DWQ-2014-004662)
 5. Draft Permit (DWQ-2014-004664)

cc: Amy Clark, EPA Region VIII (w/ encl)
Grant Koford, Bear River Health Department (w/o encl)
Jim Karpowitz, Utah Division of Wildlife Resources (w/o encl)
Chris Cline, U.S. Fish & Wildlife Services (w/o encl)
Jason Gibson, Chief, Utah Regulatory Office, U.S. Corps of Engineers (w/o encl)
Matthew Seddon, State Historic Preservation Office (w/o encl)

DWQ-2014-006468

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195 North 1950 West • Salt Lake City, UT
Mailing Address: P.O. Box 144870 • Salt Lake City, UT 84114-4870
Telephone (801) 536-4300 • Fax (801) 536-4301 • T.D.D. (801) 536-4414

www.deq.utah.gov

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MAY 14 2014

Box Elder News Journal
55 South 100 West
Brigham City, UT 84302

Email address: terri@benewsjournal.com

ATTENTION: Legal Advertising Department

This letter will confirm authorization to publish the attached NOTICE in The Box Elder News Journal in the first available edition. Please mail the invoice and affidavit of publication to:

Department of Environmental Quality
Division of Water Quality
Attn: Stacy Carroll
P.O. 144870
Salt Lake City, Utah 84114-4870

If there are any questions, please contact Edith VanVleet at (801) 536-4397. Thank you for your assistance.

Sincerely,

John Kennington, P.E., Manager
UPDES Engineering Section

JK:DW:ev



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May 21, 2014

DIVISION OF WATER QUALITY
UTAH DEPARTMENT OF ENVIRONMENTAL QUALITY
PUBLIC NOTICE TO REISSUE UPDES PERMIT

PURPOSE OF PUBLIC NOTICE

THE PURPOSE OF THIS PUBLIC NOTICE IS TO DECLARE THE STATE OF UTAH'S INTENTION TO REISSUE A UTAH POLLUTANT DISCHARGE ELIMINATION SYSTEM (UPDES) PERMIT UNDER AUTHORITY OF THE UTAH WATER POLLUTION CONTROL ACT, SECTION 19-5-104(9) AND 107(2), UTAH CODE ANNOTATED 1953, AS AMENDED. SAID "PERMIT" REFERS TO THE UPDES PERMIT AND THE STATEMENT OF BASIS (INCLUDING TOTAL MAXIMUM DAILY LOADS (TMDL'S)) IF APPLICABLE, AS PER SECTION 303(D) OF THE FEDERAL CLEAN WATER ACT (CWA)].

PERMIT INFORMATION

PERMITTEE NAME: Chamberlain Investment Company
MAILING ADDRESS: 8140 North Highway 38. Honeyville, UT 84103
TELEPHONE NUMBER: (435) 279-8202
FACILITY LOCATION: Directly across the street from the address above
UPDES PERMIT NO.: UT0025739
PERMITTED OUTFALLS: 001A
RECEIVING WATER: Well water will be pumped to existing ground water

BACKGROUND

The Chamberlain Investment Company (CIC) is a proposed spa resort which may include a restaurant and greenhouses as well as grottos and swimming pools. The State Engineer's office has issued a non-consumptive water right to CIC. This water right cannot exceed 1.00 cubic feet per second (.65 million gallons a day or 724 acre feet annually). The only additive to the water prior to the discharge will be chlorine for disinfection purposes as mandated by the Utah Department of Health.

PUBLIC COMMENTS

Public comments are invited any time prior to the deadline of the close of business on June 23, 2014. Written public comments can be submitted to: Dave Wham, UPDES Engineering Section, Utah Division of Water Quality, P.O. Box 144870, Salt Lake City, Utah 84114-4870 or by email at: dwham@utah.gov. After considering public comment the Utah Division of Water Quality may execute the permit reissuance, revise it, or abandon it.

The permit is available for public review under "Public Participation" at www.waterquality.utah.gov/. If internet access is not available, a copy may be obtained by calling Dave Wham at 801-536-4337.

Official Draft Public Notice Version May 21, 2014

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

**FACT SHEET AND STATEMENT OF BASIS
CHAMBERLAIN INVESTMENT COMPANY
UPDES PERMIT NUMBER: UT0025739
MINOR INDUSTRIAL**

FACILITY CONTACTS

Person Name: Robert Chamberlain
Position: President
Phone Number: (435) 279-8202

Facility Name: Chamberlain Investment Wells
Mailing Address: 8140 North Highway 38
Honeyville, Utah 84103
Telephone: (435) 279-8202

DESCRIPTION OF FACILITY

The Chamberlain Investment Company (CIC) is a planned spa resort which may include a restaurant and greenhouses as well as grottos and swimming pools. The State Engineer's office has issued a non-consumptive water right to CIC. This water right cannot exceed 1.00 cubic feet per second (.65 million gallons a day or 724 acre feet annually). There is one cold water well and two hot water wells from which CIC will be able to obtain mineral water for use by the spa. CIC has the ability to control the flow of both wells to adjust the temperature for the comfort of their guests. The plan is to have several pools and grottos at different temperatures with the first set of pools at about 105° F (40.5° C), the second series of pools and grottos with a temperature of about 80° F (26.7° C) and the temperature of the third pool and grottos will be about 60° F (15.6° C). The flow from the grottos and swimming pools will enter a concrete serpentine manmade creek to decrease the chlorine and increase the dissolved oxygen before the discharge water enters Salt Creek. It has a Standard Industrial Classification (SIC) code of 7999, for Amusement and Recreation Services, not elsewhere classified.

SUMMARY OF CHANGES FROM PREVIOUS PERMIT

There are no substantive changes from the previous permit.

DISCHARGE

The water from the wells will be pumped from existing ground water in the area. The water from the cold water well has a temperature of 58.19° F (14.55° C) and a TDS concentration of 960 mg/L. The water from the thermal well has a temperature of 122° F (49.94° C) and a TDS concentration of 41,000 mg/L. The only additive to the water prior to the discharge will be chlorine for disinfection purposes as mandated by the Utah Department of Health.

The discharge point shall be known as 001, with STORET sampling number of 4901435. The spa resort location is to be directly across the street to the west from the address above, in Box Elder County, Utah, at Latitude N 41° 39' 23.5", longitude, W 115° 05' 20.5" NAD 83 Datum.

RECEIVING WATERS AND STREAM CLASSIFICATION

The discharge is to Salt Creek , which is classified as 2B, 3B, 3D according to Utah Administrative Code (UAC) R317-2.

Class 2B - Protected for secondary contact recreation such as boating, wading, or similar uses.

Class 3B - Protected for warm water species of game fish and other warm water aquatic life, including the necessary aquatic organisms in their food chain.

Class 3D - Protected for waterfowl, shore birds and other water-oriented wildlife not included in classes 3A, 3B, or 3C, including the necessary aquatic organisms in their food chain.

BASIS FOR EFFLUENT LIMITATIONS

The pH is based upon Utah Secondary Treatment Standards, according to *(UAC) R317-1-3.2*.

The total chlorine residual (TCR) limitation is found under *UAC R317-2.14.2., Table 2.14.2, Numeric Criteria For Aquatic Wildlife*, which states the TRC cannot exceed 0.011 mg/L (see ADDENDUM) in order to meet State water quality standards in the receiving waters.

The temperature limitation is also found under *UAC R317-2.14.2., Table 2.14.2, Numeric Criteria For Aquatic Wildlife*, which states the temperature of the discharge cannot exceed 27° C (80.6° F), for waters of the State classified as 3B and 3D.

A dissolved oxygen (DO) effluent limit of 4.0 mg/L is based on professional judgment to meet State water quality standards at the compliance point below the discharge.

Parameter	Effluent Limitations			
	30 Day Monthly Avg	7 Day Weekly Avg	Daily Minimum	Daily Maximum
Flow, MGD	NA	NA	NA	.65
Temperature, °C	NA	NA	NA	27.0°C (80.6°F)
Dissolved Oxygen, mg/L	NA	NA	4.0	NA
Total Residual Chlorine mg/L	NA	NA	NA	.011
pH, Standard Units	NA	NA	6.5	9.0

NA – Not Applicable.

SELF-MONITORING AND REPORTING REQUIREMENTS

The following self-monitoring requirements are the same as in the previous permit. The permit will require reports to be submitted monthly and annually, as applicable, on Discharge Monitoring Report (DMR) forms due 28 days after the end of the monitoring period. Lab sheets for biomonitoring must be attached to the biomonitoring DMR. Lab sheets for metals and toxic organics must be attached to the DMRs.

Self-Monitoring and Reporting Requirements, *a			
Parameter	Frequency	Sample Type	Units
Total Flow, *b, *c	Monthly	Recorder	MGD
Temperature	Monthly	Grab	mg/L
Dissolved Oxygen	Monthly	Grab	mg/L
Total Residual Chlorine	Monthly	Grab	mg/L
pH	Monthly	Grab	SU

*a See Definitions, *Part VIII*, for definition of terms.

*b Flow measurements of influent/effluent volume shall be made in such a manner that the permittee can affirmatively demonstrate that representative values are being obtained.

*c If the rate of discharge is controlled, the rate and duration of discharge shall be reported.

STORMWATER REQUIREMENTS

With a Standard Industrial Classification code of 7999 (Amusement and Recreation Services), this permittee does not fall within the categories of industrial dischargers that are regulated under *UAC R317.8*. Therefore, there will be no storm water monitoring or reporting requirements for this permittee.

BIOMONITORING REQUIREMENTS

A nationwide effort to control toxic discharges where effluent toxicity is an existing or potential concern is regulated in accordance with the *State of Utah Permitting and Enforcement Guidance Document for Whole Effluent Toxicity Control (biomonitoring)*. Authority to require effluent biomonitoring is provided in *Permit Conditions, UAC R317-8-4.2, Permit Provisions, UAC R317-8-5.3 and Water Quality Standards, UAC R317-2-5 and R317-2-7.2*.

The permittee is a minor industrial discharger that will be contributing effluent unlikely to exhibit toxicity given that stated effluent limits are met. The source of the water being utilized for recreation purposes is from both warm and cold groundwater wells controlled by the permittee. Based upon these considerations and the permitting authority's BPJ, there is no reasonable potential for toxicity in the permittee's discharge (*per State of Utah's UPDES Permitting and Enforcement Guidance Document for WET Control*). As such, there will be no numerical WET limitations or WET monitoring requirements in this permit. However, the permit will contain a toxicity limitation re-opener provision that allows for modification of the permit at anytime in the future should additional information indicate the presence of toxicity in the discharge.

PERMIT DURATION

It is recommended that this permit be effective for a duration of five (5) years.

Drafted by
Dave Wham
Utah Division of Water Quality

ADDENDUM TO FSSOB

A public notice for the draft permit will be published in the XXXXX on March XX, 2014. The comment period will end on April XX, 2014. Any comments will be responded to and summarized in the Responsiveness Summary below before the permit is issued.

Responsiveness Summary

During finalization of the Permit certain dates, spelling edits and minor language corrections may be completed. Due to the nature of these changes they are not considered Major and the permit may not be required to be re-public noticed.

PND Draft

**Utah Division of Water Quality
Statement of Basis
ADDENDUM
Wasteload Analysis and Antidegradation Level I Review**

Date: February 27, 2014

Prepared by: Dave Wham
UPDES Section

Facility: Chamberlain Investments – Salt Creek
UPDES No. UT-000739

Receiving water: Salt Creek (2B, 3B, 3D)

This addendum summarizes the wasteload analysis that was performed to determine water quality based effluent limits (WQBEL) for this discharge. Wasteload analyses are performed to determine effluent limitations necessary to maintain designated beneficial uses by evaluating projected effects of a discharge on in-stream water quality. The wasteload analysis also takes into account downstream designated uses (UAC R317-2-8). Projected concentrations are compared to numeric water quality standards to determine acceptability. The numeric criteria in this wasteload analysis may be modified by secondary standards, categorical limits, narrative criteria and other conditions determined by staff of the Division of Water Quality.

Discharge

Outfall 001: Salt Creek

The mean monthly design discharge for the facility is 1.0 cfs or .65 MGD.

Receiving Water

Chamberlin Investment Company (CIC) discharges into a small pond which forms the headwaters of Salt Creek. The pond is fed by two natural springs situated about 50 yards from each other. One is a hot spring with a flow of about four cfs, the second is a cold spring with a flow of about five cfs. The waters of Salt Creek are classified as 2B, 3B, 3D, as per UAC R317-2, and are part of the Bear River Drainage.

- *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. Examples include, but are not limited to, wading, hunting, and fishing.*
- *Class 3B - Protected for warm water species of game fish and other warm water aquatic life, including the necessary aquatic organisms in their food chain.*
- *Class 3D - Protected for waterfowl, shore birds and other water-oriented wildlife not included in Classes 3A, 3B, or 3C, including the necessary aquatic organisms in their food chain.*

MIXING ZONE

CIC discharges into a pond/slough that forms the headwaters of Salt Creek. The discharge is approximately 50 feet from the point where the western edge of the pond forms Salt Creek proper. The flow at this point goes through a culvert under a railroad crossing. Because of the influence of spring inflow/groundwater inflow, and the configuration of the ponds, determining a discrete mixing zone is problematic. As a result, we have determined the compliance point to be the point where the combined flow exits the pond at the railroad culvert. In-stream water quality standards must be met at this point.

TMDL

Salt Creek is not listed as impaired on the 2010 303(d) list.

Parameters of Concern

When the CIC Spa is developed, chlorine will be required to be added to the pool water. As a result, total residual chlorine is a parameter of concern. Because of the nature of the thermal discharge, temperature is also a parameter of concern.

Water Quality Modeling

No modeling was required for this discharge because in-stream standards are required to be met at the point of compliance.

Effluent Limitations

Effluent limitations applicable to 3B and 3D waters for the identified parameters of concern.

Total Residual Chlorine	.011	mg/l
Temperature	27	Degrees C

Antidegradation Level I Review

The objective of the Level I ADR is to ensure the protection of existing uses, defined as the beneficial uses attained in the receiving water on or after November 28, 1975. No evidence is known that the existing uses deviate from the designated beneficial uses for the receiving water. Therefore, the beneficial uses will be protected if the discharge remains below the WQBELs presented in this wasteload.

A Level II Antidegradation Review (ADR) is not required for this discharge since neither the design capacity or allowable effluent concentration has increased from the previous permit cycle.

Official Draft Public Notice Version **May 21, 2014**

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

STATE OF UTAH
DIVISION OF WATER QUALITY
DEPARTMENT OF ENVIRONMENTAL QUALITY
SALT LAKE CITY, UTAH

UTAH POLLUTANT DISCHARGE ELIMINATION SYSTEM (UPDES) PERMITS

Minor Industrial Permit No. **UT0025739**

In compliance with provisions of the Utah *Water Quality Act, Title 19, Chapter 5, Utah Code Annotated ("UCA") 1953, as amended* (the "Act"),

CHAMBERLAIN INVESTMENT COMPANY

is hereby authorized to discharge from its wastewater treatment facility to receiving waters named

SALT CREEK

in accordance with specific limitations, outfalls, and other conditions set forth herein.

This permit shall become effective on **Month XX, 20XX**

This permit expires at midnight on **Month XX, 20XX**.

Signed this **XXth** day of **Month, 20XX**.

Walter L. Baker, P.E.
Director
Utah Division of Water Quality

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PART I
DISCHARGE PERMIT NO. UT0025739
WASTEWATER

I. DISCHARGE LIMITATIONS AND REPORTING REQUIREMENTS

A. Description of Discharge Point. The authorization to discharge wastewater provided under this part is limited to those outfalls specifically designated below as discharge locations. Discharges at any location not authorized under a UPDES permit are violations of the *Act* and may be subject to 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*.

<u>Outfall Number</u>	<u>Location of Discharge Outfall</u>
001	Discharge to Salt Creek at Latitude N 41° 39' 23.5", longitude, W 115° 05' 20.5".

B. Narrative Standard. It shall be unlawful, and a violation of this permit, for the permittee to discharge or place any waste or other substance in such a way as will be 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 which produce objectionable tastes in edible aquatic organisms; or result in concentrations or combinations of substances which produce undesirable physiological responses in desirable resident fish, or other desirable aquatic life, or undesirable human health effects, as determined by a bioassay or other tests performed in accordance with standard procedures.

C. Specific Limitations and Self-Monitoring Requirements.

1. Effective immediately and lasting the duration of this permit, the permittee is authorized to discharge from Outfall 001. Such discharges shall be limited and monitored by the permittee as specified below.

Parameter	Effluent Limitations			
	30 Day Monthly Avg	7 Day Weekly Avg	Daily Minimum	Daily Maximum
Flow, MGD	NA	NA	NA	.65
Temperature, °C	NA	NA	NA	27.0°C (80.6°F)
Dissolved Oxygen, mg/L	NA	NA	4.0	NA
Total Residual Chlorine mg/L	NA	NA	NA	.011
pH, Standard Units	NA	NA	6.5	9.0

NA – Not Applicable.

PART I
DISCHARGE PERMIT NO. UT0025739
WASTEWATER

Self-Monitoring and Reporting Requirements, *a			
Parameter	Frequency	Sample Type	Units
Total Flow, *b, *c	Monthly	Recorder	MGD
Temperature	Monthly	Grab	mg/L
Dissolved Oxygen	Monthly	Grab	mg/L
Total Residual Chlorine	Monthly	Grab	mg/L
pH	Monthly	Grab	SU

- a/ See Definitions, *Part VIII*, for definition of terms.
- b/ Flow measurements of influent/effluent volume shall be made in such a manner that the permittee can affirmatively demonstrate that representative values are being obtained.
- c/ If the rate of discharge is controlled, the rate and duration of discharge shall be reported.

D. Reporting of Wastewater Monitoring Results. Monitoring results obtained during the previous month shall be summarized for each month and reported on a Discharge Monitoring Report Form (EPA No. 3320-1) or by NetDMR, post-marked or entered into NetDMR no later than the 28th day of the month following the completed reporting period. The first report is due on Month 28, 2014. If no discharge occurs during the reporting period, "no discharge" shall be reported. Legible copies of these, and all other reports including whole effluent toxicity (WET) test reports required herein, shall be signed and certified in accordance with the requirements of *Signatory Requirements (see Part VII.G)*, and submitted by NetDMR, or to the Division of Water Quality at the following address:

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

II. STORM WATER REQUIREMENTS.

The *Utah Administrative Code (UAC) R-317-8-3.9* requires storm water permit provisions to include t With a Standard Industrial Classification code of 7999 (Amusement and Recreation Services), this permittee does not fall within the categories of industrial dischargers that are regulated under *UAC R317.8*. Therefore, there will be no storm water monitoring or reporting requirements for this permittee.

PND DRAFT

III. MONITORING, RECORDING & GENERAL REPORTING REQUIREMENTS

- A. Representative Sampling. Samples taken in compliance with the monitoring requirements established under *Part I* shall be collected from the effluent stream prior to discharge into the receiving waters. Samples and measurements shall be representative of the volume and nature of the monitored discharge. Samples of biosolids shall be collected at a location representative of the quality of biosolids immediately prior to the use-disposal practice.
- B. Monitoring Procedures. Monitoring must be conducted according to test procedures approved under *Utah Administrative Code ("UAC") R317-2-10 and 40CFR Part 503*, unless other test procedures have been specified in this permit.
- C. Penalties for Tampering. 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 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 *UAC R317-2-10 and 40 CFR 503* or as specified in this permit, the results of this monitoring shall be included in the calculation and reporting of the data submitted in the DMR or the Biosolids Report Form. Such increased frequency shall also be indicated. Only those parameters required by the permit need to be reported.
- 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 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. The permittee shall (orally) report any noncompliance including transportation accidents, spills, and uncontrolled runoff from biosolids transfer or land application sites which may seriously endanger health or environment, 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, (801) 231-1769, or 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 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 VI.G, Bypass of Treatment Facilities.*);
 - c. Any upset which exceeds any effluent limitation in the permit (See *Part VI.H, Upset Conditions.*);
 - d. Violation of a maximum daily discharge limitation for any of the pollutants listed in the permit; or,
 - e. Violation of any of the Table 3 metals limits, the pathogen limits, the vector attraction reduction limits or the management practices for biosolids that have been sold or given away.
3. A written submission shall also be provided within five 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.

PART III
DISCHARGE PERMIT NO. UT0025739

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 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 V.H.3*
- J. Inspection and Entry The permittee shall allow the Director, or an authorized representative, 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, biosolids treatment, collection, storage facilities or area, transport vehicles and containers, and land application sites;
 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, digested biosolids before dewatering, dewatered biosolids, biosolids transfer or staging areas, any ground or surface waters at the land application sites or biosolids, soils, or vegetation on the land application sites; and,
 5. The permittee shall make the necessary arrangements with the landowner or leaseholder to obtain permission or clearance, the Director, or authorized representative, upon the presentation of credentials and other documents as may be required by law, will be permitted to enter without delay for the purposes of performing their responsibilities

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 enforcement action; for permit termination, revocation and reissuance, or modification; or for denial of a permit renewal application. The permittee shall give advance notice to the Director of any planned changes in the permitted facility or activity, which may result in noncompliance with permit requirements.
- B. Penalties for Violations of Permit Conditions. The Act provides that any person who violates a permit condition implementing provisions of the Act is subject to a civil penalty not to exceed \$10,000 per day of such violation. Any person who willfully or negligently violates permit conditions or the Act is subject to a fine not exceeding \$25,000 per day of violation. Any person convicted under *UCA 19-5-115(2)* a second time shall be punished by a fine not exceeding \$50,000 per day. Except as provided at *Part VI.G, Bypass of Treatment Facilities* and *Part VI.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 or the environment. The permittee shall also take all reasonable steps to minimize or prevent any land application in violation of this permit.
- 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 also 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, sludge, or other pollutants removed in the course of treatment shall be disposed of in such a manner so as to prevent any pollutant from entering any waters of the state or creating a health hazard. Sludge/digester supernatant and filter backwash shall not directly enter either the final effluent or waters of the state by any other direct route.
- G. Bypass of Treatment Facilities.

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1. Bypass Not Exceeding Limitations. The permittee may allow any bypass to occur which does not cause effluent limitations to be exceeded, 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. 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 *section VI.G.3.*
 - b. The Director may approve an anticipated bypass, after considering its adverse effects, if the Director determines that it will meet the three conditions listed in *sections VI.G.2.a (1), (2) and (3).*

3. Notice.
 - a. *Anticipated bypass.* Except as provided above in *section VI.G.2* and below in *section VI.G.3.b*, if the permittee knows in advance of the need for a bypass, it shall submit prior notice, at least ninety 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;

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(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 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 VI.G.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 IV.H, Twenty Four Hour Reporting.* The permittee shall also immediately notify the Director of the Department of Natural Resources, the public and downstream users and shall implement measures to minimize impacts to public health and environment to the extent practicable.

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 V.H, Twenty-four Hour Notice of Noncompliance Reporting;* and,

d. The permittee complied with any remedial measures required under *Part VI.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.

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 the alteration or addition could significantly change the nature or increase the quantity of parameters discharged or pollutant sold or given away. This notification applies to pollutants, which are not subject to effluent limitations in the permit. In addition, if there are any planned substantial changes to the permittee's existing sludge facilities or their manner of operation or to current sludge management practices of storage and disposal, the permittee shall give notice to the Director of any planned changes at least 30 days prior to their implementation.
- B. Anticipated Noncompliance. The permittee shall give advance notice to the Director of any planned changes in the permitted facility or activity, which may result in noncompliance with permit requirements.
- C. 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.
- D. 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.
- E. 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.
- F. 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.
- G. 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 or ranking elected official.
 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. A person is a duly authorized representative only if:

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- 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.
3. Changes to authorization. If an authorization under *paragraph VII.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 *paragraph VII.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 penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."
- H. Penalties for Falsification of Reports. 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 violation, or by imprisonment for not more than six months per violation, or by both.
- I. 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.
- J. 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

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responsibilities, liabilities, or penalties to which the permittee is or may be subject under the *Act*.

- K. 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.
- L. 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.
- M. 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.
- N. 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 *UCA 19-5-117* and *Section 510* of the *Act* or any applicable Federal or State transportation regulations, such as but not limited to the Department of Transportation regulations.
- O. 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.

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3. Revisions to the current CWA § 208 areawide treatment management plans or promulgations/revisions to TMDLs (40 CFR 130.7) approved by the EPA and adopted by DWQ which calls for different effluent limitations than contained in this permit.
- P. Biosolids – Reopener Provision. This permit may be reopened and modified (following proper administrative procedures) to include the appropriate biosolids limitations (and compliance schedule, if necessary), management practices, other appropriate requirements to protect public health and the environment, or if there have been substantial changes (or such changes are planned) in biosolids use or disposal practices; applicable management practices or numerical limitations for pollutants in biosolids have been promulgated which are more stringent than the requirements in this permit; and/or it has been determined that the permittees biosolids use or land application practices do not comply with existing applicable state of federal regulations.
- Q. Toxicity Limitation - Reopener Provision. This permit may be reopened and modified (following proper administrative procedures) to include whole effluent toxicity (WET) testing, a WET limitation, 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.
- R. Storm Water-Reopener Provision. At any time during the duration (life) of this permit, this permit may be reopened and modified (following proper administrative procedures) as per *UAC R317.8*, to include, any applicable storm water provisions and requirements, a storm water pollution prevention plan, a compliance schedule, a compliance date, monitoring and/or reporting requirements, or any other conditions related to the control of storm water discharges to "waters-of-State".

VI. DEFINITIONS

A. Wastewater.

1. The "7-day (and weekly) average", other than for e-coli bacteria, fecal coliform bacteria, and total coliform bacteria, is the arithmetic average of all samples collected during a consecutive 7-day period or calendar week, whichever is applicable. Geometric means shall be calculated for e-coli bacteria, fecal coliform bacteria, and total coliform bacteria. The 7-day and weekly averages are applicable only to those effluent characteristics for which there are 7-day average effluent limitations. The calendar week, which begins on Sunday and ends on Saturday, shall be used for purposes of reporting self-monitoring data on discharge monitoring report forms. Weekly averages shall be calculated for all calendar weeks with Saturdays in the month. If a calendar week overlaps two months (i.e., the Sunday is in one month and the Saturday in the following month), the weekly average calculated for that calendar week shall be included in the data for the month that contains Saturday.
2. The "30-day (and monthly) average," other than for e-coli bacteria, fecal coliform bacteria and total coliform bacteria, is the arithmetic average of all samples collected during a consecutive 30-day period or calendar month, whichever is applicable. Geometric means shall be calculated for e-coli bacteria, fecal coliform bacteria and total coliform bacteria. The calendar month shall be used for purposes of reporting self-monitoring data on discharge monitoring report forms.
3. "Act," means the *Utah Water Quality Act*.
4. "Acute toxicity" occurs when 50 percent or more mortality is observed for either test species at any effluent concentration (lethal concentration or "LC₅₀").
5. "Bypass," means the diversion of waste streams from any portion of a treatment facility.
6. "Chronic toxicity" occurs when the survival, growth, or reproduction for either test species exposed to a specific percent effluent dilution is significantly less (at the 95 percent confidence level) than the survival, growth, or reproduction of the control specimens.
7. "IC₂₅" is the concentration of toxicant (given in % effluent) that would cause a 25% reduction in mean young per female, or a 25% reduction in overall growth for the test population.
8. "Composite Samples" shall be flow proportioned. The composite sample shall, as a minimum, contain at least four (4) samples collected over the compositing period. Unless otherwise specified, the time between the collection of the first

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sample and the last sample shall not be less than six (6) hours nor more than 24 hours. Acceptable methods for preparation of composite samples are as follows:

- a. Constant time interval between samples, sample volume proportional to flow rate at time of sampling;
 - b. Constant time interval between samples, sample volume proportional to total flow (volume) since last sample. For the first sample, the flow rate at the time the sample was collected may be used;
 - c. Constant sample volume, time interval between samples proportional to flow (i.e., sample taken every "X" gallons of flow); and,
 - d. Continuous sample volume, with sample collection rate proportional to flow rate.
9. "CWA," means *The Federal Water Pollution Control Act*, as amended, by *The Clean Water Act of 1987*.
 10. "Daily Maximum" (Daily Max.) is the maximum value allowable in any single sample or instantaneous measurement.
 11. "EPA," means the United States Environmental Protection Agency.
 12. "Director," means Director of the Utah Water Quality Board.
 13. A "grab" sample, for monitoring requirements, is defined as a single "dip and take" sample collected at a representative point in the discharge stream.
 14. An "instantaneous" measurement, for monitoring requirements, is defined as a single reading, observation, or measurement.
 15. "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.
 16. "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.

