



Utah!

Where ideas connect

Department of Environmental Quality
Division of Water Quality

288 North 1460 West
P.O. Box 144870
Salt Lake City, Utah 84114-4870
(801) 538-6146
(801) 538-6016 Fax
(801) 536-4414 T.D.D.
www.deq.utah.gov

0010

Michael O. Leavitt
Governor

Dianne R. Nielson, Ph.D.
Executive Director

Don A. Ostler, P.E.
Director

007/005 Incoming
cc: Mike (all)
cover letter: PAM,
Daron

Water Quality Board
K.C. Shaw, P.E.
Chairman
William R. Williams
Vice-Chairman
Robert G. Adams
Nan Bunker
Ray M. Child, C.P.A.
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Executive Secretary

February 26, 2003

RECEIVED

CERTIFIED MAIL
(Return Receipt Requested)

FEB 28 2003

DIV OF OIL GAS & MINING

Cody Allred, Environmental Engineer
James Canyon Well System
P.O. Box 680
Huntington, UT 89528

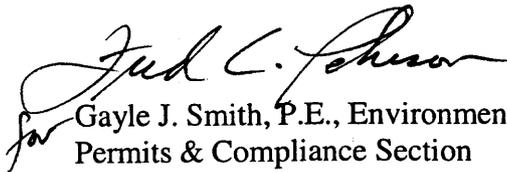
Dear Mr. Allred:

Subject: Issuance of UPDES Permit UT0025534, James Canyon Well System

Enclosed is a draft copy of the UPDES Permit No. UT0025534, the Statement of Basis, and the Public Notice for your facility.

If you have any questions with regards to this matter, please contact Mike Herkimer at (801) 538-6058.

Sincerely,


for Gayle J. Smith, P.E., Environmental Engineer
Permits & Compliance Section

GJS:MH:ev

Enclosure

cc: Linda Himmelbauer, EPA Region VIII (W/encl)
Claron Bjork, Southeastern Utah District Health Dept. (W/encl)
Dave Ariotti, DEQ, Southeastern Utah District Engineer
Pamela Grubaugh-Littig, DOGM (W/encl)



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Executive Secretary

February 26, 2003

Emery County Progress
P. O. Box 589
Castle Dale, UT 84513

ATTN: Legal Advertising Department

This letter will confirm authorization to publish the attached NOTICE in the Emery County Progress and Sun Advocate 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 Van Vleet at (801) 538-7015. Thank you for your assistance.

Sincerely,

for Gayle J. Smith, P.E., Manager
Permits & Compliance Section

GJS:MH:ev



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Executive Secretary

February 29, 2003

DIVISION OF WATER QUALITY
UTAH DEPARTMENT OF ENVIRONMENTAL QUALITY

PUBLIC NOTICE OF ISSUANCE OF UPDES PERMIT

PURPOSE OF PUBLIC NOTICE

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

PERMIT INFORMATION

| | |
|--------------------|------------------------------------|
| PERMITTEE NAME: | James Canyon Well System |
| MAILING ADDRESS: | P.O. Box 680, Huntington, UT 89528 |
| TELEPHONE NUMBER: | (435) 687-4306 |
| FACILITY LOCATION: | Huntington Canyon |
| UPDES PERMIT NO.: | UT0025534 |

BACKGROUND

This permit is for the discharge of mine water pumped from a drilled well. The discharge will go to Electric Lake. PacifiCorp, the owner and operator of Electric Lake is in need of more water going to Electric Lake as a sustained drought in Utah has caused the water level in Electric Lake to drop substantially.

PUBLIC COMMENTS

Public comments are invited any time prior to April 4, 2003. Comments may be directed to the Department of Environmental Quality, Division of Water Quality, 288 North 1460 West, P.O. Box 144870, Salt Lake City, Utah 84114-4870. All comments received prior to April 4, 2003 will be considered in the formulation of final determinations to be imposed in the renewal permit. A public hearing will be held if response to this Notice indicates significant public interest. A public hearing may be held if written requests are received within the first 15 days of this public comment period that demonstrate significant public interest and substantive issues exist to warrant holding a hearing.

FURTHER INFORMATION

Additional information may be obtained upon request by calling (801) 538-6146 or by writing the aforementioned address. All information appropriate to this permit renewal is available for review at the Division of Water Quality, 288 North 1460 West, Salt Lake City, Utah.

STATEMENT OF BASIS

JAMES CANYON WELL SYSTEM

UPDES PERMIT NO: UT0025534

Minor Facility

FACILITY CONTACT: Cody Allred, Environmental Engineer
James Canyon Well System
P.O. Box 680
Huntington, Utah 89528
(435) 687-4306

DESCRIPTION OF FACILITY: This permit is for the discharge of mine water pumped from a drilled well to Electric Lake. The area from which the pumped discharge to Electric Lake will occur is an abandoned portion of Skyline Mine No. 3 known as the 10 Left Main. This area is presently discharging approximately 6000-7000 gpm to an underground mine water system, which discharges into Eccles Creek. PacifiCorp, the owner and operator of Electric Lake is in need of more water going to Electric Lake as a sustained drought in Utah has caused the water level in Electric Lake to drop substantially. PacifiCorp and the local Emery County Water Users Association plan to drill and complete a well into the 10 left Main and pump a maximum of 5000 gpm to Electric Lake. Skyline Mine, PacifiCorp and the Emery County Water Users Association support the construction of this well. The well will be drilled and completed during the spring and summer of 2003 and will be labeled as JC-3.

A well pad is already available as another well in the area is presently discharging into Electric Lake (this well is know as JC-1 and is flowing approximately 4100 gpm). JC-3 will be located on the same pad as JC-1.

The discharge from JC-3 will flow through the same pipeline as JC-1 for three thousand feet to Electric Lake. Therefore there should be no erosion associated with the discharge.

DESCRIPTION OF DISCHARGE: There will be one discharge point from the well and this will be known as discharge point 001. The sampling point shall be at the JC-3 wellhead pump prior to entering the pipeline leading to Electric Lake. This discharge point has latitude of 39° 38' 27.1" and longitude of 111° 13' 35.2".

RECEIVING WATER CLASSIFICATION: Electric Lake is classified as High Quality Waters – Category 2 in Utah Administrative Code (UAC) R317-2-12.2. High Quality Waters – Category 2 is defined in R317-2-3.3 as "...designated surface water segments which are treated as High Quality Waters – Category 1 except that a point source discharge may be permitted provided that the discharge does not degrade existing water quality." The permit limitations will be such that degradation of Electric Lake will not be allowed.

BASIS FOR EFFLUENT LIMITATIONS: The basis for effluent limitations are the Utah Water Quality Standards as contained in UAC R317-2 and the quality of Electric Lake (the

receiving water). Code of Federal Regulations (CFR) 40 Part 434 Subpart D will not be used because the effluent limitations taken from UAC R317-2 and the quality of the receiving water are stricter.

The pH must remain within 6.5 to 9.0 at all times based on UAC R317-1-3. Because the discharge will originate from the abandoned portion of a coal mine a limit for oil and grease will be included in the permit. This will allow for detection of any residual oil and grease as a result of mine operation. Therefore, oil and grease shall be limited to a 10 mg/L daily maximum concentration. There is not a large amount of metals data available for Electric Lake. Iron is a metal normally included in coal mine permits and since this discharge is from an abandoned portion of a coal mine, monitoring for total iron will be included in this permit. Total iron will also serve as an indicator for the presence of other metals. Based on the waste load analysis (appended to this Statement of Basis) the total dissolved solids (TDS) shall not exceed 242 mg/L as a daily maximum and the discharge flow shall not exceed 5000 GPM. Based on the Colorado River Basin Salinity Control Forum's requirements as contained in "2002 Review Water Quality Standards For Salinity Colorado River System", no TDS loading limitations are required.

The following table lists the parameters in the permit and associated effluent limits.

| <u>Parameter</u> | <u>Effluent Limitations</u> | | | |
|------------------------------|-----------------------------|------------------|------------------|------------------|
| | <u>30-Day Ave</u> | <u>7-Day Ave</u> | <u>Daily Min</u> | <u>Daily Max</u> |
| pH, S.U. | NA | NA | 6.5 | 9.0 |
| Total iron, mg/L | NA | NA | NA | NA |
| Total dissolved solids, mg/L | NA | NA | NA | 242 |
| Oil & Grease, mg/L | NA | NA | NA | 10 |
| Discharge flow, GPM | NA | NA | NA | 5000 |
| NA – Not Applicable | | | | |

BIOMONITORING REQUIREMENTS: This water quality is expected to be of unusually high quality and absent any parameters in toxic amounts. Therefore, no biomonitoring will be required at this time. However, if conditions change that warrant such monitoring or limits, the permit contains re-opener provisions suitable for this purpose.

SELF-MONITORING AND REPORTING REQUIREMENTS: Discharge Monitoring Reports (DMR's) shall be submitted monthly. Self-monitoring and reporting requirements are listed in the table below:

Self-Monitoring and Reporting Requirements

| <u>Parameter</u> | <u>Frequency</u> | <u>Sample Type</u> | <u>Units</u> |
|------------------------|------------------|--------------------|--------------|
| pH | Monthly | Grab | S.U. |
| Total iron | Monthly | Grab | mg/L |
| Total dissolved solids | Monthly | Grab | mg/L |
| Oil and grease | Monthly | Grab | mg/L |
| Flow | Monthly | Instantaneously | MGD |

PERMIT DURATION: It is recommended that this permit be effective for a period of five years.

Mike Herkimer, an Environmental Scientist with the Utah Division of Water Quality on January 28, 2003, drafted this Statement of Basis.

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Utah Division of Water Quality
Salt Lake City, Utah

ADDENDUM

Statement of Basis (Wasteload Analysis & TMDL)

Date: February 13, 2003

Facilities: Pacific Corp [UT-Pending]

Receiving water: Electric Lake

The discharge from the above listed facility was evaluated for impact to its receiving water.

The receiving water (Electric Lake) is categorized as a High Quality Water – Category 2. This designation allows that a “point source discharge may be permitted provided that the discharge does not degrade the existing water quality.”

An evaluation of the proposed point source water quality (JC-1) [Q = 7.2 MGD (controlled flow)] shows that the Total Dissolved Solids (TDS) has a range of 183.0 mg/l to 193.0 mg/l with an average value of 185.6 mg/l and a 3.2 mg/l standard deviation. Metals data shows that iron is below the point of detection. There are no other metals data.

The concentration of TDS of Upper Huntington Creek, the major tributary to Electric Lake has a range of 99.0 mg/l to 284 mg/l with an average value of 188.0 mg/l and a 37.7 mg/l standard deviation. A t-test was conducted between Upper Huntington Creek and JC-1. It was determined there is no statistically significant evidence that there is a difference of the means between the proposed discharge (JC-1) and the surface water feeding Electric Lake [Upper Huntington Creek] (t value = 0.70).

As a worst-case scenario, an analysis could be made assuming the reservoir were empty. The output from the dam has a TDS concentration range of 70 mg/l to 400 mg/l with an average of 164.7 mg/l and a 44.9 standard deviation. Pacific Corp and the Utah Division of Wildlife have an understanding that in order to maintain a viable fishery in Huntington Creek, the flow coming from the dam should be equal to or greater than 15 cfs. If the dam output water at 15 cfs were mixed with the discharge directly, and if the discharge had a concentration of 242 mg/l TDS, the resultant concentration of the output water from the dam would be 198 mg/l, a 20% increase in concentration. The 164 mg/l background value is only 13.7% of the water quality standards of 1200 mg/l and the 33 mg/l increase represents only another 2.75% of the standard. The degradation effects even under these severe low flow assumptions would be negligible, and the water quality would still be considered pristine. Allowing this increase seems reasonable given that TDS is not a toxic pollutant (nor a primary or secondary pollutant under EPA guidelines) and the background water quality is at a such low concentrations. This estimated slight increase of TDS to Electric Lake caused by this discharge most probably will not be able to be detected during normal hydrologic years because of the normally large volumes of water in the lake itself and the equal concentration of the major tributary to the lake, Upper Huntington Creek.

Utah Division of Water Quality
Salt Lake City, Utah

Therefore, this Wasteload Allocation analysis suggests that a TDS limit of 242 mg/l will not have a significant effect on Electric Lake and that there will be no degradation to the water quality in Electric Lake caused by this discharge.

In as much as iron is below the level of detection in the proposed discharge and the receiving water has an iron value of 0.61 mg/l (a single sample), there is no evidence to indicate that the discharge will degrade the receiving water for this parameter. Likewise, the same argument would apply to the other metals as well. Therefore, there is no need to include metals limits in the permit. Additional metals sampling of this discharge may change this conclusion and therefore it is recommended that a metals monitoring program of the discharge be instituted.

In conclusion, the permit should include all the following requirements:

TDS: 242 mg/l (30 day average)

Priority Pollutant Metals: Monitoring

Flow: Not to exceed 7.2 MGD

Other permit limits should be set according to rules found in R-317-1.

Prepared by:
William O. Moellmer, Ph.D.
Utah Division of Water Quality

ALLOWABLE EFFLUENT CONCENTRATION/LOADING FOR CONSERVATIVE SUBSTANCES

2/13/2003

This scenario asks what a permit limit would be if the discharge were placed directly into the outlet from Electric Lake at a concentration of 150 mg/l TDS

For all Receiving Water Classifications

Season: All Seasons

This Calculates the Allowable Effluent Concentration/Loading for Conservative Substances in a Receiving Water

Conservative Substance: Total Dissolved Solids
Discharger: Pacific Corp
Receiving Water: Electric Lake
Classification: A

Receiving Water Information

Flow, cfs: 131.00
 Total Dissolved Solids, mg/l: 164.70
 Total Dissolved Solids Load, lbs/day: 13316.00

Stream Standard

Total Dissolved Solids, mg/l: 1200.00
 Allowable Loading Before Mix: 97020.00 lbs/day
 Acute / Chronic Standard: Chronic

Effluent Information

Flow, MGD: 2.26
 Flow, cfs: 11.14
 Total Dissolved Solids, mg/l: 242.00
 Total Dissolved Solids Load, lbs/day: 14528.71
 Total Dissolved Solids Load, tons/day: 7.2644
 Percent of Receiving Stream = Discharge: 0.43
 Dilution Ratio: (to 1.0): 1.35
 Acute Zone of Passage: 10.00

Combined Effluent/Receiving Water Information

Flow, cfs: 26.14 cfs
 Total Dissolved Solids, mg/l: 197.64 mg/l
 Concentration Delta Increase, mg/l: 32.94 mg/l [Delta]
 Percent Increase: 0.20
 Total Dissolved Solids Load, lbs/day: 27,844.70 lbs/day
 Allowable Loading After Mix: 169,063.17 lbs/day
 Additional Loading Allowed: 141,218.47 lbs/day

Permitted Effluent Concentration: 2,594.23 mg/l
 Permitted Effluent Loading: 155,747.18 lbs/day
 15.0000
 26.1384

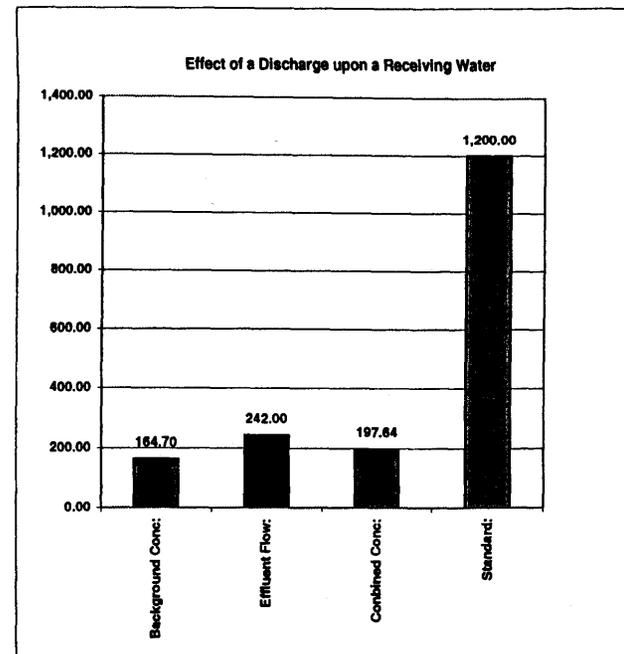
Effluent Concentration Safety Factor: 2,352.23 mg/l
 Effluent Loading Safety Factor: 141,218.47 lbs/day

Note: Whole Effluent Toxicity (WET) to be conducted on all toxic substances.

Note: Background concentrations are assumed to be as follows:

1. At instream numeric criteria where the instream concentration has not been determined.
2. At one half (1/2) instrument detection limit for those substances whose detection limit is less than the in-stream numeric criteria, or, at the determined value, whichever is greater.

Note: Waste Load Analysis may indicate unreasonably high allowed concentrations and loadings. Narrative standards, New Source Performance Standards, and BAT also apply.



Background Conc: 164.70
 Effluent Flow: 242.00
 Combined Conc: 197.64
 Standard: 1,200.00
 Percent Change: 20.0%

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

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

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

James Canyon Well System

is hereby authorized to discharge from its facility located in James Canyon,
with the outfall located at latitude 39° 38' 27.1" and longitude 111° 13' 35.2" to receiving waters named

Electric Lake

in accordance with discharge points, effluent limitations, monitoring requirements and other conditions set forth herein.

This permit shall become effective on April 1, 2003.

This permit and the authorization to discharge shall expire at midnight, March 31, 2008.

Signed this day of

Don A. Ostler
Executive Secretary
Utah Water Quality Board

TABLE OF CONTENTS

Cover Sheet--Issuance and Expiration Dates

Page No.

- I. EFFLUENT LIMITATIONS AND MONITORING REQUIREMENTS 3
 - A. Description of Discharge Point..... 3
 - B. Narrative Standard..... 3
 - C. Specific Limitations and Self-monitoring Requirements 3

- II. MONITORING, RECORDING AND REPORTING REQUIREMENTS 5
 - A. Representative Sampling 5
 - B. Monitoring Procedures 5
 - C. Penalties for Tampering..... 5
 - D. Reporting of Monitoring Results 5
 - E. Compliance Schedules..... 5
 - F. Additional Monitoring by the Permittee 5
 - G. Records Contents..... 5
 - H. Retention of Records 5
 - I. Twenty-four Hour Notice of Noncompliance Reporting 6
 - J. Other Noncompliance Reporting 6
 - K. Inspection and Entry 7

- III. COMPLIANCE RESPONSIBILITIES..... 8
 - A. Duty to Comply 8
 - B. Penalties for Violations of Permit Conditions 8
 - C. Need to Halt or Reduce Activity not a Defense..... 8
 - D. Duty to Mitigate..... 8
 - E. Proper Operation and Maintenance 8
 - F. Removed Substances 8
 - G. Bypass of Treatment Facilities 8
 - H. Upset Conditions 9
 - I. Toxic Pollutants..... 10
 - J. Changes in Discharge of Toxic Substances 10
 - K. Industrial Pretreatment 11

- IV. GENERAL REQUIREMENTS 12
 - A. Planned Changes..... 12
 - B. Anticipated Noncompliance 12
 - C. Permit Actions 12
 - D. Duty to Reapply..... 12
 - E. Duty to Provide Information..... 12
 - F. Other Information..... 12
 - G. Signatory Requirements..... 12
 - H. Penalties for Falsification of Reports..... 13
 - I. Availability of Reports 13
 - J. Oil and Hazardous Substance Liability..... 13
 - K. Property Rights..... 13
 - L. Severability..... 13
 - M. Transfers..... 13
 - N. State Laws 14
 - O. Water Quality-Reopener Provision..... 14
 - P. Toxicity Limitation -Reopener Provision 14

- V. GLOSSARY OF TERMS
 - A. Definitions..... 15

I. EFFLUENT LIMITATIONS AND MONITORING REQUIREMENTS

A. Description of Discharge Point.

The authorization to discharge provided under this permit is limited to those outfalls specifically designated below as discharge locations. Discharges at any location not authorized under a UPDES permit is a violation 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 Point</u> |
|-----------------------|---|
| 001 | Discharge from JC-3 at pumping platform, with Electric Lake as receiving water. Latitude 39° 38' 27.1" and Longitude 111° 13' 35.2". |

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 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:

| <u>Effluent Characteristics</u> | <u>Discharge Limitations a/</u> | | | <u>Monitoring Requirements</u> | |
|---------------------------------|---------------------------------|--------------|----------------|--------------------------------|-----------------|
| | <u>Average</u> | <u>Daily</u> | <u>Maximum</u> | <u>Measurement</u> | <u>Sample</u> |
| | <u>30-Day</u> | <u>7-Day</u> | <u>Maximum</u> | <u>Frequency</u> | <u>Type</u> |
| Flow, GPM | NA | NA | 5000 | Monthly | Instantaneously |
| Oil & Grease, mg/L | NA | NA | 10 | Monthly | Grab |
| Total Dissolved Solids, mg/L | NA | NA | 242 | Monthly | Grab |
| Total Iron, mg/L | NA | NA | NA | Monthly | Grab |

The pH shall not be less than 6.5 standard units nor greater than 9.0 standard units in any sample and shall be monitored monthly by a grab sample.

There shall be no visible sheen or floating solids or visible foam in other than trace amounts.

There shall be no discharge of sanitary wastes.

N.A. - Not Applicable.

a/ See Definitions, *Part I.A* for definition of terms.

2. Samples taken in compliance with the monitoring requirements specified above shall be taken at the following location(s): at JC-3 pump on the drilling platform.

II. MONITORING, RECORDING AND 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. Sludge samples shall be collected at a location representative of the quality of sludge 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*, 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. Reporting of Monitoring Results. Monitoring results obtained during the previous month shall be summarized for each month and reported monthly on a Discharge Monitoring Report Form (EPA No. 3320-1), post-marked no later than the 28th day of the month following the completed reporting period. The first report is due on May 28, 2003. If no discharge occurs during the reporting period, "no discharge" shall be reported. Legible copies of these, and all other reports required herein, shall be signed and certified in accordance with the requirements of *Signatory Requirements (see Part IV.G)*, and submitted to the Director, Division of Water Quality at the following address:

original to: Department of Environmental Quality
Division of Water Quality
288 North 1460 West
PO Box 144870
Salt Lake City, Utah 84114-4870

- E. 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.
- F. 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* or as otherwise specified in this permit, the results of this monitoring shall be included in the calculation and reporting of the data submitted in the DMR. Such increased frequency shall also be indicated. Only those parameters required by the permit need to be reported.
- G. 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.
- H. 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 three years from the date of the sample, measurement, report or application. This period may be extended by request of the Executive Secretary at any time. A copy of this UPDES permit must be maintained on site during the duration of activity at the permitted location.

I. Twenty-four Hour Notice of Noncompliance Reporting.

1. The permittee shall (orally) report any noncompliance 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) 538-6146, or 24 hour answering service (801) 536-4123.
2. The following occurrences of noncompliance shall be reported by telephone (801) 536-4123 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 III.G, Bypass of Treatment Facilities.*);
 - c. Any upset which exceeds any effluent limitation in the permit (See *Part III.H, Upset Conditions.*); or,
 - d. Violation of a maximum daily discharge limitation for any of the pollutants listed in the permit.
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; and,
 - d. Steps taken or planned to reduce, eliminate, and prevent reoccurrence of the noncompliance.
 - e. Steps taken, if any, to mitigate the adverse impacts on the environment and human health during the noncompliance period.
4. The Executive Secretary 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) 538-6146.
5. Reports shall be submitted to the addresses in *Part II.D, Reporting of Monitoring Results.*

J. 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 II.D* are submitted. The reports shall contain the information listed in *Part II.1.3*.

K. Inspection and Entry. The permittee shall allow the Executive Secretary, 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; and,
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.

III. 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 Executive Secretary 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 of 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 III.G, Bypass of Treatment Facilities* and *Part III.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.
- 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, sludges, or other pollutants removed in the course of treatment shall be buried or 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.
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 2. and 3. of this section.
 2. Prohibition of Bypass.
 - a. Bypass is prohibited, and the Executive Secretary may taken 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 G.3.

b. The executive Secretary may approve an anticipated bypass, after considering its adverse effects, if the Executive Secretary determines that it will meet the three conditions listed in sections G.2a. (1), (2) and (3).

3. **Notice.**

a. **Anticipated bypass.** Except as provided above in section G.2. and below in section 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 Executive Secretary:

- (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 Executive Secretary 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 Executive Secretary.

b. **Emergency Bypass.** Where ninety days advance notice is not possible, the permittee must notify the Executive Secretary, and the Director of the Department of Natural Resources, as soon as it becomes aware of the need to bypass and provide to the Executive Secretary the information in section G.3.a.(1) through (6i) to the extent practicable.

c. **Unanticipated bypass.** The permittee shall submit notice of an unanticipated bypass to the Executive Secretary as required under Part II.I., 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. Executive Secretary'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 II.I, Twenty-four Hour Notice of Noncompliance Reporting; and,
 - d. The permittee complied with any remedial measures required under Part III.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 Section 307(a) of *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.** Notification shall be provided to the Executive Secretary 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 *UAC R317-8-3.4(7)* or (10); or,
 - d. The level established by the Executive Secretary in accordance with *UAC R317-8-4.2(6)*.
 2. That any activity has occurred or will occur which would result in any discharge, on a non-routine 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 *UAC R317-8-3.4(9)*; or,
- d. The level established by the Executive Secretary in accordance with *UAC R317-8-4.2(6)*.

K. **Industrial Pretreatment.** Any wastewaters discharged to the sanitary sewer, either as a direct discharge or as a hauled waste, are subject to Federal, State and local pretreatment regulations. Pursuant to Section 307 of *The Water Quality Act of 1987*, the permittee shall comply with all applicable federal General Pretreatment Regulations promulgated at *40 CFR 403*, the State Pretreatment Requirements at *UAC R317-8-8*, and any specific local discharge limitations developed by the Publicly Owned Treatment Works (POTW) accepting the wastewaters.

In addition, in accordance with *40 CFR 403.12(p)(1)*, 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 CFR 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. Changes to authorization. If an authorization under paragraph IV.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 IV.G.2 must be submitted to the Executive Secretary 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 Executive Secretary. 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 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 Executive Secretary at least 20 days in advance of the proposed transfer date;

2. The notice includes a written agreement between the existing and new permittees containing a specific date for transfer of permit responsibility, coverage, and liability between them; and,
 3. The Executive Secretary 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 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*.
- 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.
 3. A revision to the current Water Quality Management Plan is approved and adopted which calls for different effluent limitations than contained in this permit.
- P. 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 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.

V. GLOSSARY OF TERMS

A. Definitions

1. The "30-day (and monthly) average" is the arithmetic average of all samples collected during a consecutive 30-day period or calendar month, whichever is applicable. The calendar month shall be used for purposes of reporting self-monitoring data on discharge monitoring report forms.
2. The "7-day (and weekly) average" is the arithmetic average of all samples collected during a consecutive 7-day period or calendar week, whichever is applicable. 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 the Saturday.
3. "Daily Maximum" ("Daily Max.") is the maximum value allowable in any single sample or instantaneous measurement.
4. A "grab" sample, for monitoring requirements, is defined as a single "dip and take" sample collected at a representative point in the discharge stream.
5. An "instantaneous" measurement, for monitoring requirements, is defined as a single reading, observation, or measurement.
6. "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 preventive maintenance, or careless or improper operation.
7. "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.
8. "Executive Secretary" means Executive Secretary of the Utah Water Quality Board.
9. "EPA" means the United States Environmental Protection Agency.
10. "Act" means the "*Utah Water Quality Act*".
11. "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 plant site runoff, spillage or leaks, sludge or waste disposal, or drainage from raw material storage.
12. "CWA" means *The Federal Water Pollution control Act*, as amended, by *The Clean Water Act of 1987*.

13. "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 discharges. This term does not include return flows from irrigated agriculture or agriculture storm water runoff.
14. "Waste pile" means any non-containerized accumulation of solid, non-flowing waste that is used for treatment or storage.
15. "10-year, 24-hour precipitation event" means the maximum 24-hour precipitation event with a probable reoccurrence interval of once in 10 years. This information is available in *Weather Bureau Technical Paper No. 40*, May 1961 and *NOAA Atlas 2*, 1973 for the 11 Western States, and may be obtained from the National Climatic Center of the Environmental Data Service, National Oceanic and Atmospheric Administration, U.S. Department of Commerce.