



State of Utah

GARY R. HERBERT  
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SPENCER J. COX  
*Lieutenant Governor*

Department of  
Environmental Quality

Alan Matheson  
*Executive Director*

DIVISION OF WATER QUALITY  
Erica Brown Gaddis, PhD  
*Director*

March 12, 2019

Gregg A. Galecki, Sr. Environmental Engineer  
Canyon Fuel Company, LLC – Skyline Mine  
HC35, Box 380  
Helper, UT 84526  
**VIA EMAIL**

Subject: Salinity Offset Credit Extension & Amended Funding Agreement  
UPDES Permit Nos.  
UT0023540 (Skyline Mine)  
UT0025593 (Dugout Mine)

Dear Mr. Galecki,

We have received your letter request dated January 28, 2019 regarding an extension to the salinity offset credits, which were previously scheduled to expire on September 1, 2019 per the original Funding Agreement, for the above referenced UPDES permit facilities. Upon review of your request and in further discussion with the agencies involved, all signatory parties to the original Funding Agreement in 2005 have agreed to grant your extension request so that the remaining 60% of the unused salinity credits, which were fully paid for by 2007, can be utilized over the next 15 years. Therefore, please find the attached fully executed signed copy of the Amended Funding Agreement for your records.

We appreciate your continued efforts to help protect Utah's Water Quality. Should you have any further questions, please contact Jeff Studenka at (801) 536-4395 or [jstudenka@utah.gov](mailto:jstudenka@utah.gov).

Sincerely,

Erica Brown Gaddis, PhD  
Director

EBG/JAS/blj

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Gregg A. Galecki, Sr. Environmental Engineer  
Canyon Fuel Company, LLC – Skyline Mine

Enclosure (1): 1. Amended Funding Agreement

Cc: Via Email w/Enclosure

Craig Anderson, Utah Assistant Attorney General  
Mark Quilter, Utah Dept. of Agriculture & Food  
Don Barnett, Colorado River Basin Salinity Control Forum  
Orion Rogers, Environmental Director, SE Utah Health Dept.  
Scott Hacking, SE Utah District Engineer  
Steve Christensen, DOGM  
Chris Hansen, Canyon Fuel Company

DWQ-2019-001996

## AMENDMENT TO FUNDING AGREEMENT

 THIS AMENDMENT TO FUNDING AGREEMENT (“Amendment”) is effective as of February 28, 2019, by and between (i) THE UTAH WATER QUALITY BOARD, DEPARTMENT OF ENVIRONMENTAL QUALITY (“Board”), by and through the Executive Secretary of that Board, and (ii) CANYON FUEL COMPANY, LLC (“CFC”, and together with the Board, collectively the “Parties”).

### RECITALS:

- A. The Parties entered into that certain Funding Agreement dated as of September 4, 2004 (“Funding Agreement”), pursuant to which CFC purchased credits in order to meet total dissolved solids salt loading limits (“Credit Tons”) under applicable UPDES permits at CFC’s Skyline and Dugout Canyon coal mines located in Utah (the “Mines”).
- B. CFC purchased a total of 99,650 Credit Tons based on its then current estimate of the number of Credit Tons it would require to meet permit requirements at the Mines for 15 years.
- C. The Funding Agreement is set to expire on September 4, 2019 and it is expected that as of such date, CFC will have a substantial number of remaining Credit Tons.
- D. The Parties desire to extend the term of the Funding Agreement and the ability of CFC to use the Credit Tons to September 4, 2034.

### AGREEMENT:

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties hereby agree as follows:

1. **DEFINED TERMS.** All capitalized terms used but not otherwise defined herein shall have the meanings ascribed to them in the Funding Agreement.
2. **AMENDMENT TO SECTION 9 OF FUNDING AGREEMENT.** Section 9 of the Funding Agreement is hereby rescinded and deleted in its entirety and replaced with the following:

“9. Termination. This Funding Agreement shall terminate on September 4, 2034 or on the date that CFC has used all of the 99,650 Credit Tons funded under this Funding Agreement, whichever is earlier. In the event of remaining Credit Tons funded under this Funding Agreement on or after September 4, 2034, the parties agree that the remaining Credit Tons shall be null and void.”
3. **AMENDMENT TO SALINITY OFFSET PROGRAM COSTS AND PAYMENT SCHEDULE.** Section 4 of the Salinity Offset Program Costs and Payment Schedule, which is attached as Exhibit A to the Funding Agreement, is hereby rescinded and deleted in its entirety.
4. **NO OTHER AMENDMENTS.** Except as amended by this Amendment, the Funding Agreement remains in full force and effect and is hereby ratified and confirmed in all respects.

IN WITNESS WHEREOF, the undersigned has executed this Amendment as of the date first written above.

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

By the Water Quality Board

By: Erica B. Gaddis  
Name: Erica B. Gaddis  
Title: Executive Secretary

Approved as to form and content:

[Signature]  
Office of the Utah Attorney General

**CANYON FUEL COMPANY, LLC**

By: [Signature]  
Name: MARC MAGLIANO  
Title: CHIEF CANYON OFFICER

JOINED AND RATIFIED BY:

**UTAH DEPARTMENT OF AGRICULTURE AND FOOD**

By: [Signature]  
Name: Robert L. Hougard  
Title: Director

**COLORADO RIVER BASIN SALINITY CONTROL  
FORUM**

By: [Signature]  
Name: James Harris  
Title: Asst. Dir