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Governor

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Lieutenant Governor

# State of Utah

## DEPARTMENT OF NATURAL RESOURCES

BRIAN C. STEED  
Executive Director

### Division of Water Rights

TERESA WILHELMSSEN  
State Engineer/Division Director

## ORDER OF THE STATE ENGINEER

FOR STREAM ALTERATION APPLICATION NUMBER **20-91-03SA**  
IN THE NAME OF SKYLINE MINE FOR ALTERATION TO WINTER QUARTERS CREEK  
IN CARBON COUNTY, UTAH

Stream Alteration Application No. **20-91-03SA**, submitted in the name of Skyline Mine, applicant, in order to enhance/modify outfall structure associated with Winter Quarters Creek, a natural stream located in Carbon County, Utah, is hereby **APPROVED** as a STATE ONLY permit, contingent upon the conditions outlined in this **ORDER**. The applicant is hereby authorized to conduct the work detailed in the application and supporting documentation, as described in this **ORDER**. Any modification or addition to the work may require additional authorization and/or application resubmittal.

1. The expiration date of this order is **June 16, 2022**. Work affecting the bed and/or banks of the stream may not be conducted after this date. Extension of the order is subject to reverification and review by the Division. A request for extension must be submitted in writing to the Division and include an explanation for project delay.
2. A copy of this order must be kept onsite at any time the work authorized under this order is in progress.
3. We suggest that you coordinate with potentially impacted landowners.
4. Photos must be taken before and after project construction and submitted to this office.
5. Disturbed areas must be planted with a variety of appropriate vegetation (especially woody vegetation where feasible) to help hold the soil around riprap, prevent excessive erosion, and to help maintain other riverine functions. Successful revegetation efforts must be monitored and reported to this office.
6. Best Management Practices should be implemented and maintained during any streamside or instream work to minimize sedimentation, temporary erosion of stream banks, and needless damage or alteration to the streambed.
7. Approval of this application does not authorize trespass, easements, rights-of-way, or any other access and land use permits. It is the responsibility of the applicant to obtain any such authorizations as may be necessary for this proposal.
8. Ingress and egress access should be kept to a minimum.



9. Excavated material and construction debris may not be wasted in any stream channel or placed in flowing waters, this will include material such as grease, oil, joint coating, or any other possible pollutant. Excess materials must be wasted at an upland site well away from any channel. Construction materials, bedding material, excavated material, etc. may not be stockpiled in riparian or channel areas.
10. Erosion control, revegetation, and noxious weed control must be implemented and monitored until revegetation becomes well established. Success of these measures must also be reported prior to the compliance inspection. This is especially important for all disturbed areas, including fill, in order to prevent sediments from entering flowing water. Particular attention is required to assure that silt fencing is properly installed and left in place until after revegetation becomes established at which time the silt fence can then be carefully removed.
11. Work must be accomplished during a period of low flow. Sediment introduced into stream flows during construction must be controlled to prevent increases in turbidity downstream. If necessary, flows must be diverted away from the construction area through use of a non-erodible cofferdam or other means of bypass.
12. Machinery must be properly cleaned and fueled offsite prior to construction.
13. Riprap must consist of only clean, properly sized angular rock, which must be keyed deeply into the streambed to prevent undercutting. A filter must be placed behind if necessary (i.e., if soils are fine grained, non-cohesive, and/or erodible). Demolition debris or refuse will not be allowed, nor material such as bricks, concrete, asphaltic material [either natural (tar sand, oil shale, etc.) or man-made].
14. Emergency Authorization was previously granted subject to respective Utah Code requirements and this permit.

The statutory process and criteria for evaluation of this application are described at Utah Code Ann. § 73-3-29 and Administrative Rule R655-13. The State Engineer has determined that this application does meet the necessary legal criteria for approval based upon the following Findings of Fact and reasoning set forth in the Discussion.

#### **FINDINGS OF FACT**

1. The application was received by the Division of Water Rights (“Division”) on May 13, 2020, and made available for comment on the Division’s webpage, provided to pertinent governmental agencies, and to other entities as warranted, for a period of 20 calendar days, said period concluding prior to June 2, 2020. Emergency Authorization was previously granted subject to respective Utah Code requirements and this permit.

2. The application contains the following information:
  - The stated description of the proposed project is: To enhance/modify outfall structure associated with Winter Quarters Creek in Carbon County.
  - The stated purpose of the proposed project is: To facilitate increased flow.
3. The following comments or objections on the proposed project were received from:
  - State of Utah - Floodplain Manager - Kathy Holder
  - USACE - U.S. Army Corps of Engineers (Corps) - Samuel Bohannon

The comments or objections received are summarized as follows:

- Kathy Holder, State Floodplain Manager (Division of Emergency Management) has indicated that the Applicant needs to make sure they get a floodplain development permit from the local Flood Plain Administrator (FPA) in the community they are doing the work in. They need to make sure they are in compliance with the National Flood Insurance Program (NFIP) and with the local flood plain regulations by contacting the communities FPA. Even state and federal agencies need to obtain the local floodplain development permits as per the federal regulations 44 CFR 60.3. This may include obtaining a Letter of Map Change (LOMC) from FEMA. As well as any other federal or local permits required to develop in Special Flood Hazard Areas (SFHA). The community (local) FPA should know what is required in these areas. If there are questions as to what is needed, individuals can call or email at 801-538-3332 (office) or 801-315-3566 (mobile) or [kholder@utah.gov](mailto:kholder@utah.gov).
- The Corps has indicated that no Corps permitting will be required.

## **DISCUSSION**

1. Based on a review of the Division's water rights records and/or a review of the application by personnel of the Division's regional office, it is the opinion of the State Engineer that the project will not impair vested water rights.
2. It is the opinion of the State Engineer that the project will not unreasonably or unnecessarily affect recreational use or the natural stream environment.
3. It is the opinion of the State Engineer that the project will not unreasonably or unnecessarily endanger aquatic wildlife.
4. It is the opinion of the State Engineer that the project will not unreasonably or unnecessarily diminish the natural channel's ability to conduct high flows.
5. Other comments or concerns submitted by interested persons or parties are not believed to be within the purview of the State Engineer in evaluating an Application to Alter a Natural Stream.

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Your contact with the Division is Daren Rasmussen, who can be reached at [DarenRasmussen@utah.gov](mailto:DarenRasmussen@utah.gov) or at telephone number 801-538-7377. Information pertaining to this application/decision can be found at the following link:  
[https://waterrights.utah.gov/cgi-bin/strmview.exe?Modinfo=Viewapp&Permit\\_Number=20910003](https://waterrights.utah.gov/cgi-bin/strmview.exe?Modinfo=Viewapp&Permit_Number=20910003)

This **ORDER** is subject to the provisions of UTAH ADMIN. CODE R. 655-6-17 of the Division of Water Rights and to UTAH CODE ANN. §§ 63G-4-302 and 73-3-14, which provide for persons or parties with legal standing to file either a Request for Reconsideration with the State Engineer or an appeal with the appropriate District Court. A Request for Reconsideration must be filed with the State Engineer within 20 days of the date of this **ORDER**. However, a Request for Reconsideration is not a prerequisite to filing a court appeal. A court appeal must be filed within 30 days after the date of this **ORDER**, or if a Request for Reconsideration has been filed, within 30 days after the date the Request for Reconsideration is denied. A Request for Reconsideration is considered denied when no action is taken within 20 days after the Request is filed.

Dated this 16<sup>th</sup> day of June, 2020.

  
Teresa Wilhelmsen, P.E.  
State Engineer

Mailed a copy of the foregoing Order this 16<sup>th</sup> day of June, 2020, to:

SKYLINE MINE  
HCR35 BOX 380  
HELPER UT 84526

Samuel Bohannon - U.S. Army Corps of Engineers, [samuel.t.bohannon@usace.army.mil](mailto:samuel.t.bohannon@usace.army.mil)  
Marc Stilson - Regional Engineer, [marcstilson@utah.gov](mailto:marcstilson@utah.gov)  
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By:   
Tiffany Gonzales  
Secretary