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General Permit for Storm Water Discharges from Construction Activities

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

Utah Pollutant Discharge Elimination System (UPDES)

Storm Water Permit for Construction Activity

Connected with Single Lot Housing Projects

Also Referred to as the "Common Plan Permit"

UPDES Permit No. UTRH00000

This Permit is issued in compliance with the provisions of the Utah Water Quality Act, Title 19, Chapter 5, Utah Code Annotated 2004, as amended (the "Act") and the federal Water Pollution Control Act (33 U.S.c. §§ 1251 et. seq., as amended by the Water Quality Act of 1987, P.L. 100-4), and the rules and Regulations made pursuant to those statutes.

This permit applies to "construction activity" for a single lot disturbing a total of one acre or less and for construction activities related to residential dwellings. A single lot covered by this permit may be stand-alone or one of many within a "common plan of development or sale" (see definitions).

Issuance of this permit does not authorize any permittee to violate water quality standards. It is assumed that the issuance of this permit will cause the permittee to engage in activities and develop best management practices (BMPs) that will protect water quality during the construction process. If it is discovered that discharges from the project are causing a violation of water quality standards or other problems with water quality, the permit will be revoked.

This permit becomes effective on MONTH/DATE, 2015.

This permit and the authorization to discharge expire at midnight on MONTH/DATE, 2020.

Signed this XX day of MONTH, 2015

Walter L. Baker, P.E.

Director

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Single Lot Residential Building Projects UTRH00000

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1. **COVERAGE UNDER THIS PERMIT.** Conditions for coverage under this permit.
 - 1.1. Coverage Limitations. A project site (see definition of a project site in Part 6) is eligible for this permit if it meets the following requirements:
 - 1.1.1. is found within the State of Utah but is not in Indian Country,
 - 1.1.2. has a total disturbance from start to finish of one acre or less.
 - 1.1.3. is construction activity related to residential building on an individual lot or parcel (most frequently associated with a common plan of development or sale).
 - 1.2. Discharges Allowed. This permit allows discharges of storm water (and snowmelt runoff) from construction activity and a project site, provided the storm water discharge meets the requirements within this permit.
 - 1.3. Non-Storm Water Discharges. Other non-storm water discharges that are allowed are:
 - 1.3.1. flushings from potable or irrigation water sources (where it has not been used for a washing or cleaning activity);
 - 1.3.2. water used for dust control;
 - 1.3.3. spring water and groundwater that has not been soiled with sediment or other pollutants from construction activity;
 - 1.3.4. fire-fighting activities, and;
 - 1.3.5. footing drains if they have not been soiled from construction activity.
 - 1.4. How to Obtain Permit Coverage. The Permit is obtained for a project site on-line at <http://www.waterquality.utah.gov/UPDES/stormwatercon.htm>. Click on “Storm Water Permit Issuance System”. Proceed with creating an account, or if an account is had, proceed with providing the information requested. The NOI for this permit is the same NOI that is used for the UTRC00000 permit. To complete the application process the permittee must pay a permit fee. The NOI for construction activity may be filled out electronically when using the on-line permit application system. A paper form for the NOI can be obtained on the same web site cited above. A permittee can also submit the paper form, properly filled out with the permit fee to the DWQ (195 N. 1950 W., or P.O. Box 144870, Salt Lake City, 84114-4870, Utah, 3rd floor in the MASOB bldg.) and also receive coverage. The two parties that must sign on the NOI are the owner and the general contractor (which in some cases could be the same party). When a party receives coverage under the permit they will receive a permit tracking number and the opportunity to copy the NOI for “proof of coverage”.
 - 1.5. Permit Renewal. This permit must be renewed yearly on the anniversary date of the original permit application. It is done by logging on to the account created at the time of NOI application and refreshing the information on the NOI along with paying the yearly permit fee.
 - 1.6. Start and end of Permit Coverage. Permit coverage will start at the completion and submission of an NOI with the permit fee. For projects within the jurisdiction of storm water regulated MS4s (see definitions in Part 6; the list of regulated MS4’s is found on <http://www.waterquality.utah.gov/UPDES/stormwatermun.htm>) the permittee must also notify

and receive approval for the project from the storm water regulated MS4s having jurisdiction, before the project commences. The permit fee is an annual fee which must be paid yearly at the anniversary date of issuance of the permit. The permit will continue effective until or unless any of the following occurs:

- 1.6.1. The permittee completes the notice of termination (NOT) process, as outlined in section 1.7,
 - 1.6.2. The permittee fails to submit the yearly permit fee,
 - 1.6.3. When this general permit (UTRH00000) expires, the permittee must update the NOI and indicate in the on-line electronic storm water data base in the appropriate place (or by letter, received by DWQ before the expiration date), within a year prior to the expiration date that they wish to be covered under the renewed permit.
 - 1.6.3.a. If a renewal permit has been issued and is in place at the expiration date of this permit, this permit will terminate and coverage under the renewed permit will begin on the expiration date (unless 1.6.1 has been invoked).
 - 1.6.3.b. If a renewal permit has not been issued, this permit will be administratively extended until a renewal permit is issued or it is determined that this permit will not be continued. If a renewal permit is issued, and the permittee indicated a desire for continuing coverage under the new permit, coverage will continue for the permittee under the new permit coverage (unless 1.6.1 is invoked). If the permit is discontinued the permittee must continue coverage under another general permit or an individual permit.
 - 1.6.4. Coverage under the permit is rescinded or revoked for administrative reasons. In this case the permittee will be notified in writing from the Director, and will be required to apply for coverage under a different general or individual UPDES permit. This permit is terminated on the day coverage under another permit begins.
- 1.7. Notice of Termination. The permittee must terminate the permit (by submitting a notice of termination or NOT) when the project is completed. To terminate the permit the permittee must meet “final stabilization” (see definitions), and comply with either 1.7.1 or 1.7.2., and must comply with 1.7.3 if the project is within the jurisdiction of a storm water regulated MS4 (see <http://www.waterquality.utah.gov/UPDES/stormwatermun.htm> for regulated MS4s):
- 1.7.1. The residential building must be completed with a certificate for occupancy and sold to homeowners, and if built by the homeowners they must be in the process of moving in or already have moved in the house, and the lot must have adequate erosion and sediment controls deployed to prevent soil migration off site;
 - 1.7.2. The landscaping is completed where there are no areas of loose disturbed soil (other than garden areas), or at least final stabilization (see definition in Part 6) has been completed.
 - 1.7.3. The permittee must submit of a paper copy of a Notice of Termination form to the MS4 of jurisdiction and schedule a final inspection (with the MS4). Termination is complete upon approval of the final inspection from the local MS4.

- 1.8. Water Quality: By design of appropriate BMPs it is expected that the permittee will be able to achieve compliance with water quality standards. If additional information becomes available indicating a project site is causing or is contributing to a violation of water quality standards or an existing TMDL, coverage under this permit may be revoked or rescinded, and the permittee may be required to get coverage under an individual UPDES permit or another UPDES general permit. If this occurs the owner and the general contractor will be notified in writing by the Director of Water Quality and given instructions concerning how they must proceed.
- 1.9. Requirement to Post a Notice of Your Permit Coverage. You must post a sign that includes the UPDES Permit tracking number, an owner or general contractor contact name, a phone number for the owner or general contractor, an email address for the operator or general contractor, and (in the case of an electronic SWPPP) a web address (or information about how to obtain access to the electronic SWPPP). The notice must be located so that it is visible from a public access point and it must have a font large enough to be visible and readable from a public right-of-way.

2. POLLUTION PREVENTION REQUIREMENTS. The permittee must comply with the following requirements.

2.1. Structural Controls. The permittee is required to minimize sediment transport off the site as follows:

2.1.1. *Stock Piled Material*. Stockpiled material must not be stored on an impervious surface (except a material that will not be transported with precipitation, for example, 2 inch graded and washed gravel), unless it will be permanently placed the same day it is dropped. When stock piled material is placed for one day or less on an impervious surface it must be placed on a tarp or plastic film. If stored temporarily for more than a day it must be placed as far as feasibly possible from roads or other impervious surfaces, storm water inlets, or water bodies and with stockpile perimeter runoff controls utilized.

2.1.2. *Perimeter Controls*. The permittee must provide properly placed perimeter controls (silt fence, straw wattles, other filter berm, cut back curb, vegetative buffer, or etc.) on the down slope sides of the project to prevent sediment from leaving the site during a storm event. As perimeter controls become loaded to 1/3 of capacity, they must be cleaned.

2.1.3. *Inlet Protection*. The permittee must protect storm drain inlets on the project site and on adjacent roads down gradient from the site if applicable. Protection may be but is not limited to rock wattles, sand bags, proprietary devices, or other (rock wattles and sand bags are not advised for use in winter because they are destroyed or removed by snow plows). Inlet protection on streets must be maintained and cleaned daily (see Part 3.1.2).

2.2. Protection of Critical or Sensitive Areas: For protection of critical or sensitive areas (e.g., preservation of the drip line around trees, wetlands, buffer zones by water bodies, etc.) the permittee shall separate and isolate the area with environmental fencing. Environmental fencing is a fence that clearly marks the area and provides a minimal obstacle, making it inconvenient for people to cross.

2.3. Managing the Site to Minimize Sediment Transport Off Site.

2.3.1. The permittee must minimize the area of soil disturbance, at any one time, disturbing only what is necessary to complete the active stage of construction at the time.

2.3.2. The permittee must minimize soil disturbance on steep slopes.

2.3.3. The permittee must, control storm water volume and velocity to minimize soil erosion in order to minimize sediment transport in the discharge.

2.3.4. The permittee must control discharges, including both peak flowrates and total stormwater volume, to minimize channel and streambank erosion and scour in the immediate vicinity of discharge points.

2.3.5. *50 Foot Vegetative Buffer*. If there is a water body adjacent to, within 50 feet from, or going through the project boundaries the permittee must provide a 50 foot natural buffer between the water body and construction activity, provide a substitute control measure

equivalent to the 50 foot buffer if a natural buffer is not possible, or the permittee must describe why neither is feasible in the SWPPP. The permittee is not responsible for maintaining a natural buffer or substitute controls on any area outside of the project boundaries, but if the water body is within, for example, 40 feet from the project boundaries, the permittee must maintain 10 feet of natural vegetative buffer, or if 30 feet from the project boundaries, the permittee must maintain 20 feet of natural vegetative buffer, and so forth. If a buffer is infeasible a substitute a control measure that is equivalent to whatever length of buffer that is required on the project. Substitution of a buffer is doubling perimeter controls (e.g., 2 rows of silt fence, silt fence placed with a staked fiber roll on the upstream side, or similar). If the substitute buffer BMPs are on a 20% slope or greater they must include tripling the perimeter controls with a stabilization technique (e.g., hydromulch, geotextile mat, compost mulch, or etc.), placed in between spaced perimeter controls.

- 2.4. Good Housekeeping Measures. The permittee must address the following.
 - 2.4.1. *Track Out.* A track out pad (2 inch or greater clean gravel) must be used, or if traffic onto and off the site is not frequent, a blanket prohibition of vehicle traffic onto the site may be imposed by the permittee, allowing for the occasions to deliver and unload, but afterwards providing sweeping and/or cleaning up track out (not using water to wash tracked soil into a storm drain). Clean streets as needed every night, see Part 3.1.2.
 - 2.4.2. *Waste and Debris.* The site must be continually cleaned of waste and debris and contained adequately enough to secure it (including from wind) until it is removed from the site and disposed of properly.
 - 2.4.3. *Portable Toilet.* Portable toilets must be tied down or staked down (or otherwise have measures applied that prevent turnover) and placed on a flat secure surface to prevent them from over turning, and they must be placed away from a road gutter, storm water inlet, or water body.
 - 2.4.4. *Washing of Concrete, Stucco, and Paint Equipment.* The permittee must provide a plastic film lined pit (or sealed container) to washout equipment used for concrete, stucco, and paint (only water based). After completion of concrete, stucco, and paint tasks, the permittee must dispose of the waste properly. Oil based paint cleanout must be done in containers, taken off site, and disposed of separately.
- 2.5. Soil Compaction/Top Soil. The permittee shall minimize soil compaction and preserve top soil, unless infeasible.
- 2.6. Stabilization Requirement. Stabilization requirements are as follows:
 - 2.6.1. *Stabilization requirements for areas that receive 20 inches of rainfall annually or greater:* Stabilization of disturbed areas must, at a minimum, be initiated immediately whenever any clearing, grading, excavating or other earth disturbing activities have permanently ceased on any portion of the site, or temporarily ceased on any portion of the site and will not resume for a period exceeding 14 calendar days.. Stabilization can be sodding, planting, application of mulch (e.g., straw, wood, rock, bark, compost,

hydromulch, gravel, etc.), application of a tackifier, a combination of the said methods, or other method.

2.6.2. *Stabilization requirements for arid and semi-arid areas (areas receiving less than 20 inches of rainfall annually):* Stabilization for visually flat areas is not required. Areas with slopes up to roughly 8% must have, at minimum, velocity control devices in every area where storm water collects and flows, spaced frequently enough across the flow to stop erosion. Non-vegetative stabilization is required on all other sloped areas increasing the robust nature of stabilization commensurately with increasingly steeper slopes. Seeding is required on all areas that are not covered with other stabilization elements or structural elements (building structure or pavement) or that are engineered or intended for structural purposes (like graveled parking or dirt roads). Disturbed areas on projects outside of populated areas and where no irrigation is available must be reclaimed with a seed mix of plants indigenous to the area. Velocity dissipation devices may be permanent or temporary. If velocity control devices are intended for temporary use until vegetation is re-established after the permit is terminated they must be biodegradable.

2.7. Construction Dewatering. Construction dewatering can occur on site without an additional UPDES permit if it is infiltrated or contained on site and is not discharged off site. Otherwise construction dewatering discharges must be permitted under UPDES Permit UTG070000.

2.8. Pollution Prevention Measures. The permittee must design, install, implement, and maintain effective pollution prevention measures to minimize the discharge of pollutants. At a minimum, such measures must be designed, installed, implemented and maintained to:

2.8.1. minimize the discharge of pollutants from equipment and vehicle washing, wheel wash water, and other wash waters. Wash waters must be treated in a sediment basin or alternative control that provides equivalent or better treatment prior to discharge

2.8.2. minimize the exposure of building materials, building products, construction wastes, trash, landscape materials, fertilizers, pesticides, herbicides, detergents, sanitary waste and other materials present on the site to precipitation and to storm water. Minimization of exposure is not required in cases where the exposure to precipitation and to storm water will not result in a discharge of pollutants, or where exposure of a specific material or product poses little risk of storm water contamination (such as final products and materials intended for outdoor use); and

2.8.3. minimize the discharge of pollutants from spills and leaks and implement chemical spill and leak prevention and response procedures

2.9. Prohibited Discharges. The following discharges are prohibited:

2.9.1. Wastewater from washout of concrete;

2.9.2. Wastewater from washout and cleanout of stucco, paint, form release oils, curing compounds and other construction materials;

- 2.9.3. Fuels, oils, or other pollutants used in vehicle and equipment operation and maintenance; and
- 2.9.4. Soaps or solvents used in vehicle and equipment washing..

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3. SELF-INSPECTION REQUIREMENTS.

3.1. Frequency of Self-Inspections.

3.1.1. *Weekly Self Inspections:* Self-inspections must occur once a week (every 7 days).

3.1.2. *Daily Self Inspections:* Every day after construction stops for the day the permittee must inspect and sweep or clean up accumulations of dirt in the street or buildup of sediment on inlet protection BMPs, other BMPs offsite, or discharge areas off site.

3.2. Points Covered in the Self-Inspection.

3.2.1. *Areas to check.*

3.2.1.a. Areas that have been cleared, graded, or excavated that are not stabilized,

3.2.1.b. All storm water control measures, including perimeter controls,

3.2.1.c. Material piles, waste disposal containers, sanitary facilities, loose trash, litter, washout areas, portable toilets, track out pad, egress points (if any), etc.,

3.2.1.d. Storm water conveyances through the site, treatment areas, and drainages,

3.2.1.e. All storm water discharge points, street gutters, storm water inlets, and

3.2.1.f. Areas that have been temporarily stabilized.

3.2.1.g. Areas that have been permanently stabilized and are completed do not need further inspections.

3.2.2. *Items to be checked:*

3.2.2.a. All erosion and sediment controls and pollution prevention controls have been installed, are operational, and are working as intended to minimize pollutant discharges. Determine if any controls need to be replaced, repaired, or maintained.

3.2.2.b. Identify any locations where new or modified storm water controls are necessary

3.2.2.c. Signs of visible erosion and sedimentation (i.e., sediment deposits) that have occurred and are attributable to discharges from your site,

3.3. Inspection Reports. The self-inspection must be written up within 24 hours in a report that includes:

3.3.1. the initials of the person doing the inspection,

3.3.2. the date of the inspection,

3.3.3. the weather during the inspection,

3.3.4. the problems that were found needing correction (as it pertains to Part 3.2.1 & 3.2.2 above),

- 3.3.5. the date when corrective action is completed, and
 - 3.3.6. all self-inspection reports must be placed in the SWPPP or with the SWPPP and be available during an oversight inspection.
 - 3.3.7. Photos must be included in inspection reports showing problems encountered during the inspection and corrections made.
- 3.4. Corrective Action: Corrective action must be completed by the end of the next working day after the inspection.

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4. STORM WATER POLLUTION PREVENTION PLAN (SWPPP).

4.1. A SWPPP Must Be Prepared. The permittee must prepare a SWPPP before the NOI for a new project is submitted. The SWPPP must address all the applicable requirements in Part 2.

4.1.1. *SWPPP Site Design.* The design, installation and maintenance of erosion and sediment controls must address factors such as the amount, frequency, intensity and duration of precipitation, the nature of resulting storm water runoff, and soil characteristics, including the range of soil particle sizes expected to be present on the site.

4.1.2. *Surface Outlets:* When discharging from basins and impoundments, utilize outlet structures that withdraw water from the surface, unless infeasible.

4.2. Contents of a SWPPP. A SWPPP must contain the following:

4.2.1. *Contacts.* The contacts for the site with contact information (name, address, phone, email): owner, general contractor, and any other party that significantly affects the development of the SWPPP or has activities that are directed by the SWPPP.

4.2.2. *Sequence and Estimated Dates of Construction Activities.* Listed in the sequence and estimated dates should be:

- 4.2.2.a. start and end of excavation activities, initial excavation, backfill excavation and final grading.
- 4.2.2.b. any cessation of earth disturbing activities temporarily or permanently, and
- 4.2.2.c. start and end of landscaping.

4.2.3. *Site Map or Chart.* A site map may be hand drawn (as close to scale as possible) or a copy of an architect drawing with the following information on it:

- 4.2.3.a. Boundaries of the property;
- 4.2.3.b. Boundaries of soil surface disturbances (including any outside the boundaries of the property);
- 4.2.3.c. Slopes, including areas of steep slopes;
- 4.2.3.d. Locations of stock piles of soils, storage of construction materials, portable toilets, trash containers, concrete washout pits or containers, egress points, track out pads;
- 4.2.3.e. Water bodies, wet lands, natural buffer areas;
- 4.2.3.f. Locations of and types of BMPs or storm water control measures for the control and/or treatment of storm water flowing onto, through, and/or off the site;
- 4.2.3.g. Locations of storm water inlets, storm water discharge points going off the site, and

- 4.2.3.h. Areas that will be temporarily or permanently stabilized during the construction period.
- 4.2.4. *50 Foot Natural Buffer.* The SWPPP must show the dimensions and placement of the 50 foot natural buffer, the substitute control measures, or a detailed explanation of why a natural buffer or substitute control measure could not be applied.
- 4.2.5. *Pollutants.* A list of construction site pollutants including the pollutant generating activity, and an inventory of pollutants for each pollutant generating activity (e.g., paints; solvents; form oil; fuels; and other chemicals, applications, materials, and liquids that if released could pollute storm water).
- 4.2.6. *Waste Management.* Waste management procedures including soil removal, clearing debris removal, demolition removal, trash disposal, construction waste disposal, sanitary waste disposal, etc.
- 4.2.7. *Training.* The permittee will record training made for sub-contractors coming on the site. For each sub-contractor or utility provider, the permittee will record the day and the instruction covered to make the sub-contractor aware of their responsibilities for keeping soil on the site and preventing pollution. The permittee must keep in mind that they are responsible for and may be issued fines for poor performances by their sub-contractors and utility providers. Consideration will be given if the permittee can document when and what instructions were given to the subordinate party.
- 4.2.8. *NOI and Permit.* The SWPPP must contain a copy of this permit and a copy of the NOI for the project.
- 4.2.9. *SWPPP Signature & Certification.* The SWPPP must be signed and certified by both the Owner and the General Contractor in accordance with Part 5.16.1.a. and c.
- 4.2.10. *Availability of the SWPPP.* The SWPPP must be available at the construction site covered under this permit during times of construction activity on the site, unless the SWPPP resides on the internet. If the SWPPP is available on the internet there must be a sign (see Part 1.9) that describes how the SWPPP can be accessed from the internet. The SWPPP is a plan for the site and workers must be able to refer to the SWPPP and update it as needed to manage the site (including SWPPPs found on the internet). The SWPPP is not required to be on the site when construction workers leave for the day or when there is no activity occurring on the site, but at all times there must be posted contact information where the SWPPP can be obtained. (see Part 1.9). The SWPPP must be made available within 24 hours to DWQ representatives (or other oversight inspectors, e.g., EPA or a local MS4) on requested, or immediately during an inspection on the site when there are workers and activity at the site.
- 4.2.11. *Required Modifications of the SWPPP.* The SWPPP must be modified when:
 - 4.2.11.a. due to inspections, corrective action, or observations of site conditions it becomes apparent that storm water control measures are
 - 4.2.11.a.i. not adequate or not shown in the SWPPP, or

4.2.11.a.ii. changes in the SWPPP are necessary for compliance with this permit.

4.2.11.b. an oversight authority determines that the SWPPP is not adequate.

4.2.12. *SWPPP Modifications Deadline.* Modifications to the SWPPP from inspections or oversight authority direction must occur within 3 days.

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5. STANDARD PERMIT CONDITIONS.

5.1. Duty to Comply.

5.1.1. 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.

5.1.2. *Penalties for Violations of Permit Conditions*

5.1.2.a. *Violations.* The Act provides that any person who violated the Act, Utah wastewater rules, or conditions of a permit issued under the Act is subject to a fine of \$10,000 per day.

5.1.2.b. *Willful or Gross Negligence.* The Act provides that any person who discharges a pollutant to waters of the State as a result of criminal negligence or who intentionally discharges is criminally liable and is subject to imprisonment and a fine of up to \$50,000 per day. Utah Code Ann. § 19-5-115.

5.1.2.c. *False Statements.* The Act provides that any person who knowingly makes any false material statement, representation, or certification in any application, record, report, plan, or other document filed or required to be maintained under the Act, the rules, or this permit, or who knowingly falsifies, tampers with, or renders inaccurate, any monitoring device or method required to be maintained under the Act shall upon conviction, be punished by a fine of not more than \$10,000 or by imprisonment for 6 months, or by both. Utah Code Ann. § 19-5-115(4).

5.2. Duty to Reapply. If a permittee wishes to continue an activity regulated by this permit after the expiration date of this permit, it must apply for and obtain a new permit except as provided in Part 1.5 of this permit.

5.3. 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.

5.4. 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.

5.5. Duty to Provide Information. The permittee shall furnish to the Director or an authorized representative, within a reasonable time, any information which is requested to determine compliance with this permit. The permittee must also furnish to the Director or an authorized representative copies of records to be kept by this permit.

5.6. Other Information. When the permittee becomes aware that he or she failed to submit any relevant facts or submitted incorrect information in the Notice of Intent or in any other report to the Director, he or she shall promptly submit such facts or information.

- 5.7. Oil and Hazardous Substance Liability. 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 to which the permittee is or may be subject under the “Act”.
- 5.8. Property Rights. The issuance of this permit does not convey any property rights of any sort, nor any exclusive privileges, nor does it authorize any injury to private property nor any invasion of personal rights, nor any infringement of Federal, State or local laws or regulations.
- 5.9. Severability. The provisions of this permit are severable, and if any provision 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.
- 5.10. Record Retention.
- 5.10.1. The permittee shall retain copies of SWPPPs and all reports required by this permit, and records of all data used to complete the Notice of Intent to be covered by this permit, for a period of at least three years from the date that the site is finally stabilized. This period may be extended by request of the Director at any time.
- 5.10.2. After final stabilization of the construction site is complete, the SWPPP is no longer required to be maintained on site, but may be maintained by the permittee at its primary headquarters. However, access to the SWPPP will continue as described in Part 4.2.10.
- 5.11. Addresses. All written correspondence under this permit shall be directed to the Division of Water Quality at the following address:
- Department of Environmental Quality
Division of Water Quality
195 N. 1950 West
P.O. Box 144870
Salt Lake City, Utah 84114-4870
- 5.12. 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 Utah Code Ann. § 19-5-117.
- 5.12.1. No condition of this permit shall release the permittee from any responsibility or requirements under other environmental statutes or regulations.
- 5.13. 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 and with the requirements of SWPPPs. Proper operation and maintenance also includes adequate laboratory controls and appropriate quality assurance procedures. Proper operation and maintenance requires the operation of backup or auxiliary facilities or similar systems, installed by a permittee only when necessary to achieve compliance with the condition of the permit.

5.14. Inspection and Entry. The permittee shall allow, upon presentation of credentials, the Director or an authorized representative:

- 5.14.1. To 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 this permit;
- 5.14.2. Have access to and copy at reasonable times, any records that must be kept under the conditions of this permit.
- 5.14.3. Inspect at reasonable times any facilities, equipment (including monitoring and control equipment), practices or operations regulated or required under this permit; and
- 5.14.4. Sample or monitor at reasonable times for the purposes of assuring permit compliance or as otherwise authorized by law, any substances or parameters at any location.

5.15. Reopener Clause.

- 5.15.1. *Reopener Due to Water Quality Impacts.* If there is evidence indicating that the storm water discharges authorized by this permit cause, have the reasonable potential to cause or contribute to, a violation of a water quality standard the discharger may be required to obtain an individual permit or an alternative general permit in accordance with Part 1.6.4 of this permit or the permit may be modified to include different limitations and/or requirements.
- 5.15.2. *Reopener Guidelines.* Permit modification or revocation will be conducted according to UAC R317-8-5.6 and UAC R317-8-6.2.
- 5.15.3. *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 modification of planned changes or anticipated noncompliance does not stay any permit condition.

5.16. Signatory Requirements.

5.16.1. All Notices of Intent, SWPPPs, reports, certifications or information submitted to the Director, or that this permit requires be maintained by the permittee, shall be signed as follows:

5.16.1.a. All Notices of Intents and SWPPPs shall be signed as follows:

5.16.1.a.i. For a corporation: by a responsible corporate officer. For the purpose of this section, a responsible corporate officer means: a president, secretary, treasurer, or vice-president of the corporation in charge of a principal business function, or any other person who performs similar policy or decision-making functions for the corporation; or the manager of one or more manufacturing, production or operating facilities employing more than 250 persons or having gross annual sales or expenditures exceeding \$25,000,000 (in second-quarter 1980

- 5.16.1.a.ii. dollars) if authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures;
 - 5.16.1.a.iii. For a partnership or sole proprietorship: by a general partner or the proprietor, respectively: or
 - 5.16.1.a.iv. For a municipality, State, Federal, or other public agency: by either a principal executive officer or ranking elected official. For purposes of this section, a principal executive officer of a Federal agency includes (1) the chief executive officer of the agency, or (2) a senior executive officer having responsibility for the overall operations of a principal geographic unit of the agency (e.g., Regional Administrators of EPA).
- 5.16.1.b. All reports required by the permit and other information requested by the Director or by an authorized representative of 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:
- 5.16.1.b.i. The authorization is made in writing by a person described above and submitted to the Director; and
 - 5.16.1.b.ii. The authorization specifies either an individual or a position having such as the position of manager, operator, superintendent, or position of equivalent responsibility or an individual or position having overall responsibility for environmental matters for the company. (A duly authorized representative may thus be either a named individual or any individual occupying a named position).
- 5.16.1.c. *Certification.* Any person signing documents under this Part 5.16 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 gathered and evaluated 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.

- 5.16.2. If a document is to be signed electronically, the Division's rules regarding electronic transactions govern.

6. DEFINITIONS

“Arid Areas” – areas with an average annual rainfall of 10 inches or less.

“Common Plan of Development” or “CPoD” - is a plan to subdivide a parcel of land into separate parts for separate sale. This can be for a residential, commercial, or industrial development. The plan originates as a single parcel which is separated into parts. This usually goes through an approval process by a local governmental unit, but in some cases may not require that process. The original plan is considered the “common plan of development or sale” whether phased or completed in steps. If a further plan is conceived that was not foreseen during the original plan, or the original plan is added onto but the addition was conceived later and was not included in any part of the original plan concept and/or development, and it is developed after the completion of the construction of roads, utilities, and lot subdivision layout, it would be a separate “common plan of development or sale”. More than one owner of developable land can purposely join together and develop a single common plan of development or sale, but without a determined effort and coordinated planning, land owned by different owners would not be considered part of a single common plan of development or sale. For UPDES storm water permit purposes a common plan must have been initiated after October, 1992. A common plan of development or sale remains so until each lot or section of the development has fulfilled its planned purposes (e.g. in a residential development as homes are completed, stabilized, and sold or occupied). As lots or separated sections of the development are completed, the lot or section is stabilized, and the plan purposes are fulfilled for that area, lot, or section; it is no longer part of the common plan of development or sale (e.g. if a home is sold in a development and the owner decides to add a garage somewhere on the lot, that garage project is not part of the common plan of development or sale. In this process a common plan of development or sale may become reduced in size and/or separated by completed areas (which are no longer part of the common plan of development or sale), but all unfinished lots remain part of the same common plan development or sale until they are completed, stabilized, and fulfilled according to the purposes of the plan).

“Construction Activity” - is earth disturbing activities, such as the clearing, grading, and excavation of land.

“Construction Waste” - discarded material (such as packaging materials, scrap construction materials, masonry products, timber, steel, pipe, and electrical cuttings, plastics, and Styrofoam).

“Corrective Action” - for the purposes of the permit, any action taken to (1) repair, modify, or replace any storm water control used at the site; (2) clean up and dispose of spills, releases, or other deposits found on the site; and (3) remedy a permit violation

“Dewatering” - the act of draining rainwater and/or groundwater from building foundations, vaults, and trenches (Note: if dewatering is occurring on a construction site and it causes a discharge to waters of the State, it must be permitted separately under the Construction Dewatering and Hydrostatic Testing Permit UTG070000).

“Director” – the director of the Division of Water Quality.

“Discharge Point” – for the purposes of this permit, the location where collected and concentrated storm

water flows are discharged from the construction site.

“Final Stabilization” – all disturbed areas must be covered by permanent structures (pavement, concrete slab, building, etc.), or for areas not covered by permanent structures but that are receiving 20 inches or more of average annual precipitation either (1) vegetation has been established with a uniform (e.g., evenly distributed, without large bare areas) perennial vegetative cover of 70 percent of the natural background vegetative cover, or (2) non-vegetative stabilization methods have been implemented to provide effective cover for exposed portions of the site sufficient to provide cover permanently or until seeded vegetation returns (comparable to the cover provided by indigenous vegetation). In the case of areas that are not covered by permanent structures, but that are receiving less than 20 inches of average annual precipitation (arid areas, 0 to 10 inches; semi-arid areas, 10 to 20), final stabilization is equivalent to the requirements of section 2.6.2 of this permit.

“Impervious Surface” – for the purpose of this permit, any land surface with a low or no capacity for water infiltration including, but not limited to, pavement, sidewalks, parking areas, driveways, or rooftops.

“Indian Country” – defined at 40 CFR §122.2 as:

1. All land within the limits of any Indian reservation under the jurisdiction of the United States Government, notwithstanding the issuance of any patent, and, including rights-of way running through the reservation;
2. All dependent Indian communities within the borders of the United States whether within the originally or subsequently acquired territory thereof; and
3. All Indian allotments, the Indian titles to which have not been extinguished, including rights-of-ways running through the same.

“Infeasible”: infeasible means not technologically possible, or not economically practicable and achievable in light of best industry practices. DWQ notes that it is not intentional for permit storm water control efforts required in the permit to conflict with state water rights law (in the case of conflict, state water rights law supersedes).

“Install” or “Installation” – when used in connection with storm water controls, to connect or set in position storm water controls to make them operational.

“Municipal Separate Storm Sewer System” or “MS4” – Is a storm sewer system owned and operated by a state, city, town, county, district, association, or other public body (created by or pursuant to State law) having jurisdiction over disposal of storm water that discharges to waters of the State (e.g., Sandy City owns and operates the municipal separate storm sewer system (MS4) within the jurisdiction of Sandy City, or essentially Sandy City is the MS4).

“Natural Buffer” – for the purposes of this permit, an area of undisturbed natural cover surrounding surface waters within which construction activities are restricted. Natural cover includes the vegetation, exposed rock, or barren ground that exists prior to commencement of earth-disturbing activities.

“Oversight Authority” - Oversight authorities for storm water permits are agents from the EPA, DWQ or the Municipality of jurisdiction, when they are addressing compliance of storm water permits.

“Owner” - for the purpose of this permit an owner has ownership of property on which construction activity is taking place, but it also includes ownership of a project for which construction activity is occurring on property that is leased. An owner is the party that has ultimate control over construction plans and specifications, including the ability at the highest level to make modifications to those plans and specifications. “Owner” in this context is the party that has ultimate control over the destiny of a project.

“Permittee” – is the owner and/or the general contractor (those that signed on the NOI), for the project.

“Pollutant-Generating Activities” – at construction sites (for the purposes of this permit), those activities that lead to or could lead to the generation of pollutants, either as a result of earth disturbance or a related support activity. Some of the types of pollutants that are typically found at construction sites are:

- sediment;
- nutrients;
- heavy metals;
- pesticides and herbicides;
- oil and grease;
- bacteria and viruses;
- trash, debris, and solids;
- treatment polymers; and
- any other toxic chemicals.

“Pollution Prevention Measures” – storm water controls designed to reduce or eliminate the addition of pollutants to construction site discharges through analysis of pollutant sources, implementation of proper handling/disposal practices, employee education, and other actions.

“Project site” - a project site is not necessarily contained within the property boundaries designated for the final construction objective, or property owned by the owner of the project. The project site includes all areas affected by the construction process where disturbances, storage, or other construction activity occurs. If an area outside of property boundaries is used for the construction process, DWQ assumes the permittee has the right to access and use that area and the permittee must meet permit requirements in that area also.

“Receiving Water – a “Water of the State” is as defined in Utah Administrative Code R317-1-1.34, into which the regulated storm water discharges.

“Semi-Arid Areas” – areas with an average annual rainfall of between 10 to 20 inches.

“Stabilization” – the use of vegetative and/or non-vegetative cover to prevent erosion and sediment loss in areas of disturbed soil exposed from the construction process.

“Storm Water Control Measures” – refers to any storm water control, BMP, or other method used to

prevent or reduce the discharge of pollutants to waters of the state.

“Storm Water Inlet” – an entrance or opening to a storm water conveyance system, generally placed below grade so as to receive storm water drainage from the surrounding area.

“Storm Event” – a precipitation event that results in a measurable amount of precipitation.

“Waters of the State” - means all streams, lakes, ponds, marshes, water-courses, waterways, wells, springs, irrigation systems, drainage systems, and all other bodies or accumulations of water, surface and underground, natural or artificial, public or private, which are contained within, flow through, or border upon this state or any portion thereof, except that bodies of water confined to and retained within the limits of private property, and which do not develop into or constitute a nuisance, or a public health hazard, or a menace to fish and wildlife, shall not be considered to be "waters of the state" under this definition (Section 19-5-102).

P/N DRAFT

