

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

In the Matter of: Hogan & Associates Construction, Inc. Treasure Mountain Sports Complex	NOTICE OF VIOLATION AND COMPLIANCE ORDER DOCKET NO. I26-01
---	---

This Notice of Violation and Compliance Order (“NOV/CO”) is issued to Hogan & Associates Construction, Inc. (“Hogan”) in its capacity as operator of the site activities occurring at the Treasure Mountain Sports Complex located at 2530 Kearns Boulevard, Park City, UT 84060, (“Treasure Mountain project site”), based upon the Facts and Determinations asserted herein. This NOV/CO is issued by the Director of the Utah Division of Water Quality (“Director”) pursuant to the Director’s authority under the Utah Water Quality Act, Utah Code §§ 19-5-101 *et seq.* (the “Act”) and Utah Admin. Code R317-1-1 *et seq.* (“Water Quality Rules”). This NOV/CO is also issued in accordance with the administrative procedures of the Utah Department of Environmental Quality (“DEQ”), Utah Admin. Code R305-7-101 *et seq.*

A. STATUTORY AUTHORITY

1. The State of Utah’s surface water quality programs as adopted in the Act by the Utah Legislature operate with federal oversight and under delegation from the Environmental Protection Agency (“EPA”) under the Clean Water Act, 33 U.S.C. § 1342. EPA delegated authority to the State of Utah to administer the National Pollutant Discharge Elimination System permit program under the Clean Water Act, known in Utah as the Utah Pollutant Discharge Elimination System (“UPDES”).
2. The Director is authorized to issue, continue in effect, renew, revoke, modify, or deny discharge permits and to issue orders under the Act, and in accordance with Utah Code § 19-5-106(2)(d), to enforce rules made by the Water Quality Board (“Board”) through the issuance of orders.
3. The Utah Division of Water Quality (“Division”) was created to administer the Act under the immediate direction and control of the Director pursuant to Utah Code § 19-1-105.
4. Pursuant to Utah Code § 19-5-111, whenever the Director determines there are reasonable grounds to believe that there has been a violation of the Act, the Water Quality Rules, or any order of the Director or the Board, the Director may issue a notice of violation. In that event, the notice of violation shall require that the matters complained of be corrected.
5. Pursuant to Utah Code § 19-5-115, violation of the Act, or any permit, rule, or order adopted under the Act, may be subject to a civil penalty of up to \$10,000 per day of violation. Higher penalties and other sanctions may arise in situations amounting to knowing violations.

B. APPLICABLE STATUTORY AND REGULATORY PROVISIONS

1. Utah Code § 19-5-107(1)(a) states: “Except as provided in [the Act] or [Water Quality Rules], it is unlawful for any person to discharge a pollutant into waters of the state or to cause pollution which constitutes a menace to public health and welfare, or is harmful to wildlife, fish, or aquatic life, or impairs domestic, agricultural, industrial, recreational, or other beneficial uses of water, or to place or cause to be placed any waste in a location where there is probable cause to believe it will cause pollution.”
2. Utah Code § 19-5-107(3) states: “[i]t is unlawful for any person, without first securing a permit from the director, to: (a) make any discharge . . . not authorized under an existing valid discharge permit.”
3. Utah Code § 19-5-102(12)(a) defines “Point source” as a “discernible, confined, and discrete conveyance, including a pipe, ditch, channel, tunnel, conduit, well, discrete fissure, container, rolling stock, concentrated animal feeding operation, or vessel or other floating craft, from which pollutants are or may be discharged.”
4. Utah Code § 19-5-102(22) defines “Waste” or “pollutant” as: “dredged spoil, solid waste, incinerator residue, sewage, garbage, sewage sludge, munitions, chemical wastes, biological materials, radioactive materials, heat, wrecked or discarded equipment, rock, sand, cellar dirt, and industrial, municipal, and agricultural waste discharged into water.”
5. Utah Code § 19-5-102(23)(a) defines “Waters of the state” as: “streams, lakes, ponds, marshes, watercourses, waterways, wells, springs, irrigation systems, drainage systems, and all other bodies or accumulations of water, surface and underground, natural or artificial, public or private, that are contained within, flow through, or border upon this state or any portion of the state.”
6. Utah Admin. Code R317-2-13 classifies Silver Creek and tributaries, from confluence with Tollgate Creek to headwaters as a 1C, 2B, 3A, and 4 waters of the State, which, under Utah Admin. Code R317-2-6, establishes the following protections. Further, these waters are impaired for both arsenic and lead with respect to the 1C and 3A beneficial uses:
 - i. Class 1C – Protected for domestic purposes with prior treatment by treatment processes as required by the Utah Division of Drinking Water.
 - ii. Class 2B – Protected for infrequent primary contact recreation. Also protected for secondary contact recreation where there is a low likelihood of ingestion of water or a low degree of bodily contact with water.
 - iii. Class 3A – Protected for cold water species of game fish and other cold water aquatic life, including the necessary aquatic organisms in their food chain.
 - iv. Class 4 – Protected for agricultural uses including irrigation of crops and stock watering.
7. Utah Admin. Code R317-8-3(3.1)(3) states “[w]hen a facility or activity is owned by one (1) person but is operated by another person, it is the operator’s duty to obtain a permit.”

C. FACTS & DETERMINATIONS

1. Hogan is a domestic business corporation doing business in Summit County, Utah.
2. Hogan is a “person” as defined by Utah Code § 19-1-103(4) and is subject to all applicable provisions of the Act and the Water Quality Rules.
3. Hogan is the operator of the site activities occurring at the Treasure Mountain project site.
4. The Treasure Mountain project site is owned by the Board of Education of Park City School District (“PCSD”) and is the former location of Treasure Mountain Junior High School.
5. The Treasure Mountain project site is known to contain elevated levels of lead. *See* Environmental Covenant, Book 2396, Page 1748, Summit County Recorder (February 10, 2017).
 - i. PCSD is the Grantor, Owner, and Holder of the Environmental Covenant. The Utah Department of Environmental Quality, Division of Environmental Response and Remediation (“DERR”) began coordinating with PCSD on the site activities at the Treasure Mountain project site beginning in 2022. DERR’s oversight began following the discovery of noncompliance with the Environmental Covenant.
6. On July 10, 2025, Hogan submitted a Notice of Intent (“NOI”) for coverage under the General Permit for Storm Water Discharges from Construction Activities (“CGP”) for storm water discharges associated with construction activity at the Treasure Mountain project site, and was assigned Permit No. UTRC11237. The NOI lists the owner and operator as PCSD and Hogan, respectively.
 - i. CGP Part 1.2.4 states “**You must obtain a permit for discharges of construction dewatering** (groundwater that intersects with excavation) under UTG070000 (Construction Dewatering and Hydrostatic Test Permit), and the Municipal Separate Storm Sewer System (MS4) (of jurisdiction) notified of the discharge. You may choose not to obtain a permit under UTG070000 if the construction dewatering does not leave the site (you allow the water to percolate into the ground on site)” (*bolding in original*).
7. On August 14, 2025, R&R Environmental, Inc. (“R&R”), a subcontractor of PCSD, notified Hogan and PCSD that groundwater encountered onsite must be discharged through an appropriate method. Part of this notification states, that a “[d]ischarge per SWPPP requirements” must be approved by “DEQ Water Quality.” R&R suggested that Hogan “call and discuss their SWPPP with DEQ immediately.”
8. On August 20, 2025, R&R provided Hogan and PCSD analytical results of sampled groundwater taken on August 15, 2025 within a trench on the Treasure Mountain project site. *See* Chemtech-Ford Work Order ID No. 25H1473 (“Trench sampling results”). The Trench sampling results show the presence of lead and arsenic, presented in Table 1 below:

Pollutant	W-1	W-2
Total Arsenic (mg/L)	0.0411	0.0184
Total Lead (mg/L)	0.287	0.0848

9. On October 10, 2025 at 10:18 AM MST, R&R notified Hogan, PCSD and various representatives of EPA, DEQ, and MOCA Systems of a discovered illicit discharge from the project site into Silver Creek. The email states:

“Today, our onsite technician identified **a surface discharge from the site into silver creek**. As stated in writing at the beginning of this project, this type of discharge is not allowable. Upon further investigation we identified that there has been **a water discharge that went unseen since almost the start of the project**. We have identified that the pumps have been pumping since near the beginning of the project and are turned on at approximately 8:00AM and shutoff at approximately 4:30PM M-F. The pump is rated at 40 gallons per minute. All Groundwater must be captured, held onsite, and properly characterized prior to discharge...**It is the creek sediment that will be the bigger issue based on metal fall rates** in the surface water.”

10. On October 10, 2025, immediately prior to the notification, at approximately 9:45AM MST, R&R took water samples from three locations: 1) in the Pace Homer Ditch at the point of discharge (“TM Epicenter”); 2) in the Pace Homer Ditch, fifteen feet downstream of the point of discharge (“TM 15 feet”); and 3) in Silver Creek, roughly two miles downstream of the point of discharge (“HW 248 overpass”). See Chemtech-Ford Work Order ID No. 25J0999. The results of the October 10th samples are summarized in Table 2 below:

Pollutant	TM Epicenter	TM 15 feet	HW 248 overpass
Total Arsenic (mg/L)	0.0053	0.0058	0.0079
Total Lead (mg/L)	0.0335	0.0369	0.0242

11. On October 10, 2025 at 1:20 PM MST, Hogan submitted an NOI for coverage under the General Permit for Construction Dewatering and Hydrostatic Testing (“CDHT”) for the Treasure Mountain project site (“first CDHT NOI”). The owner and operator were listed as PCSD and Hogan, respectively. In this first CDHT NOI, Hogan identified one discharge point (“001: Silver Creek on East property line”) into the receiving water listed as “Silver Creek 2,” using a weir tank as the treatment. Hogan certified the site activity was “construction dewatering of uncontaminated groundwater or surface water due to construction activities.”
- The first CDHT NOI was certified by a representative of Hogan, that the contents of the application “is, to the best of my knowledge and belief, true, accurate, and complete. I have no personal knowledge that the information submitted is other than true, accurate, and complete.”
 - The Trench sampling results, provided to Hogan on August 20, 2025, clearly indicate the groundwater being dewatered was not uncontaminated, contrary to Hogan’s certification.

12. On October 10, 2025 at 2:45 PM MST, a Division representative notified Hogan and their subcontractor, Cearley SWPPP Management (“Cearley”), that the discharges from the project site are unauthorized without the appropriate permit coverage. The Division representative advised Hogan and Cearley to report the unauthorized discharge to the DEQ Spills Hotline.
13. On October 10, 2025 at 3:30 PM MST, Cearley reported to the DEQ Spills Hotline that Hogan made an unpermitted discharge of groundwater to a tributary of Silver Creek from the Treasure Mountain project site. The notification was logged in DEQ’s Environmental Incidents Database as Report No. 19945.
14. On October 14, 2025 at 2:50 PM MST, Cearley submitted an unsigned ‘Initial Non-Compliance Notification,’ on behalf of Hogan. Later that day, at 3:41 PM MST, Cearley stated that “the wrong one” (notification) was initially sent to the Division. The following day, on October 15, 2025, Cearley submitted a revised ‘Initial Non-Compliance Notification’ that was signed and certified by Hogan. Except for the ‘Explanation’ and the ‘Cease’ date, the contents of these two notifications are identical. Both notifications reported two distinct discharges, reported to total 7,200 gallons, from the Treasure Mountain project site.
 - i. The **first discharge** is described as “dewatering through weir tanks to [a storm drain] inlet for several weeks without dewatering permit.” However, the location of this storm drain was not included in the notification (hereinafter “Storm Drain #1”).
 - ii. The **second discharge** is described as “Sub contractor [sic] dewatered for 3 hours into the ditch on the East property line,” also known as “Silver Creek 2” (hereinafter “Pace Homer Ditch”).
 1. The Pace Homer Ditch is a water of the State and a tributary of Silver Creek.
 - iii. The first notification provides the following two explanations for the discharges:
 1. “City, school district and RR Environmental gave Hogan & Associates approval to dewater through weir tank into storm drain, no mention of permit was made & Hogan did not obtain one” (“Explanation 1”).
 2. “Subcontractor hit ground water while fixing sewer line and pumped water into ditch on East side with no BMPs in place. They did not use the onsite weir tanks” (“Explanation 2”).
 - iv. The second notification includes Explanation 2 but does not include Explanation 1.
 - v. Both notifications state, “Sampling, daily inspections has started” and “dewatering into the ditch was stopped.” However, the first notification includes a cease date of “10/10/2025” whereas the second notification does not include a cease date.
15. On October 14, 2025 at 2:50 PM MST, together with the unsigned ‘Initial Non-Compliance Notification,’ Cearley provided Division with the Trench sampling results as provided by R&R to Hogan on August 20th. *See* Chemtech-Ford Work Order ID No. 25H1473.
 - i. After review of the Trench sampling results, on October 14, 2025 at 3:39 PM MST, the Division notified Cearley that discharges represented by these results are not authorized under the CDHT due to the demonstrated arsenic and lead contamination.

- ii. The Division also asked Cearley if the site is still discharging and, at 3:05 PM MST, Cearley responded, “Yes, they will be discharging through the weir tanks.”
16. On October 17, 2025 at 9:21 AM MST, the Division requested Hogan provide a report detailing: 1) all current and past discharges to surface water or conveyances (i.e. storm drains) from the Treasure Mountain project site; 2) descriptions of corrective actions taken to address or eliminate the discharges; and 3) a plan for any required cleanup of impacted areas.
17. On October 17, 2025 at 12:07 PM MST, Hogan submitted a second NOI for coverage under the CDHT (“second CDHT NOI”), despite the Division having notified Hogan previously that its discharge was not authorized under the CDHT because the groundwater was contaminated. The second CDHT NOI estimated a discharge of 384,000 gallons monthly through a second discharge location not included in the first CDHT NOI.
 - i. The second CDHT NOI included “Discharge Point 002: South West corner of property” using a weir tank as the treatment.
 - ii. The second CDHT NOI identifies that the receiving water for Discharge Point 002 is Silver Creek-2.
 - iii. Discharge Point 002 is a Storm Drain located near the intersection of Kearns Blvd. and Comstock Drive, based on the Latitude/Longitude provided in the second CDHT NOI (hereinafter “Storm Drain #2”).
 - iv. On April 07, 2026, Park City Municipal Corporation communicated to the Division that Storm Drain #2 “does not tie into Park City infrastructure.”
18. On October 28, 2025 at 8:59 AM MST, Hogan submitted a Notice of Termination (“NOT”) of UPDES Permit Coverage under the CDHT Permit No. UTG072043.
19. On October 28, 2025 at 4:12 PM MST, Hogan submitted the report requested by the Division (“October 28th report”). The October 28th report included: 1) a written narrative; 2) a “Pump Activity Report;” and 3) analytical results for samples taken by Cearley on October 13, 2025.
20. The October 28th report’s written narrative stated: “All deep excavation requiring de-watering has been completed and will no longer be necessary. The need to dewater and discharge ground water from the site is no longer taking place.”
21. The October 28th report identified dates, durations, and flow rates (gallons per minute) of discharges (“Pump Activity Report”). A revised Pump Activity Report, submitted November 18, 2025, identifies the locations for these discharges as a storm drain located within the parking lot of the Treasure Mountain project site (hereinafter “Storm Drain #3”), and the Pace Homer Ditch.
 - i. The Pump Activity Report detailed discharges to the Storm Drain #3 on seventeen days between September 9, 2025 and October 8, 2025. Based on the flow rates and durations reported, the Division estimates approximately 492,312 gallons of contaminated groundwater were discharged over these seventeen days.

- ii. The Pump Activity report detailed a discharge to the Pace Homer Ditch “only once on 10/10/2025 for 3 hours.” Based on the flow rate and duration reported, the Division estimates the total volume of contaminated groundwater discharged to be 26,496 gallons.
- 22. The October 28th report included a laboratory analytical report for water samples taken by Cearley on October 13, 2025 (“October 13th lab report”). *See* Chemtech-Ford Work Order ID No. 25J1095. The sample location, “Treasure Mountain 001,” was reported to be from a discharging hose into a storm drain inlet located on the southwest corner of the project site (Storm Drain #2), as indicated on the SWPPP Map provided by both Cearley and Hogan on November 06, 2025. *See* ‘Treasure Mt Map.pdf.’
 - i. The October 13th lab report includes a Total Suspended Solids result of 11.0 mg/L and a Total Lead result of 0.0167 mg/L.
- 23. Although Hogan states in its Pump Activity report that discharges to Storm Drain #3 ceased on October 8, 2025, the Director has determined that discharges continued beyond this date. Each of the facts listed below suggest continued discharges beyond October 10, 2025, contrary to the October 28th report and the Pump Activity Report. Hogan did not provide an explanation for these discrepancies.
 - i. The October 13 sampling results demonstrate a discharge occurred on October 13, 2025.
 - ii. At the request of a Division representative, Cearley submitted its daily log required under the CDHT. The log detailed a discharge on October 13, 2025, from 10:00 AM through 4:00 PM, at 40 gallons per minute.
 - iii. In follow up communication regarding the October 28th report, on November 6, 2025, Cearley submitted Hogan’s “dewatering map” labeled “Active Site Map as of 10-21-2025.” The dewatering map shows two “discharge” locations: 1) near the southwest corner of the Treasure Mountain project site; and 2) adjacent to the surface water labeled “Pace Homer Ditch.”
 - iv. Hogan’s stormwater pollution prevention plan (“SWPPP”) was amended on December 17, 2025. Amendment 001 states “Dewatering Practices: Dewatering took place from 10/06-10/17. Water was taken from the ground and put into the river. Map where dewatering took place is on SW2. Dewatering permit obtained is on SW2.”
 - v. Hogan’s SWPPP was amended a second time on April 24, 2026. This second amendment modified Amendment 001 to instead state that “[d]ewatering took place on 10/10.” Additionally, Amendment 002 states “[d]ewatering started and stopped 10/13/25.”
- 24. On February 24, 2026, PCSD submitted an NOI for a Treated Groundwater and Surface Water (“TGSW”) Permit (“PCSD NOI”). The PCSD NOI included analytical results for groundwater samples taken from the Treasure Mountain project site on January 13, 2026. The analytical results exhibited the presence of the following Metals, Inorganics, and Volatile Organic Compounds summarized in Table 3 below (*ND = Not detected at the corresponding Minimum Reporting Limit):

Metals		
Pollutant	Total (mg/L)	Dissolved (mg/L)
Arsenic	0.0149	0.0020
Barium	0.187	0.111
Cadmium	0.0025	0.0015
Chromium	0.0059	0.0032
Copper	0.0213	0.0021
Lead	0.156	0.0058
Mercury	0.00094	Not Sampled
Silver	0.001	ND*
Selenium	0.00194	0.00160
Zinc	0.31	0.114

Inorganics	
Pollutant	Result (mg/L)
TDS	2690
TSS	356
Volatile Organic Compounds	
Pollutant	Result (ug/L)
Acetone	261
Chloroform	10
Methyl Ethyl Ketone	48
Methylene Chloride	7

25. The PCSD NOI described several layers of treatment necessary to remove the pollutants and to treat the water to levels acceptable for discharge. The following was the described treatment required:

“Construction dewatering will be diverted to a series of frac tanks with weirs where the water will be held. Flocculation/Polymer will be added to each tank as water treatment for metals. Once the heavy metals settle out to the bottom of the tanks, the water will pass through a sock filter and into a mixing tank where it will be diluted with water from a nearby fire hydrant at a 60:40 ratio to reduce TDS.”

26. Hogan did not employ the above treatment for its discharges into the Storm Drain(s) or into Pace Homer Ditch. The Director determines the groundwaters discharged prior to the February 24th PCSD NOI submittal were substantially similar to the groundwaters sampled for the February 24th NOI submittal, and therefore that the above listed pollutants were present during all prior discharges.

D. VIOLATIONS

Based on the foregoing Facts and Determinations, the Director determines that **Hogan & Associates Construction, Inc.** has violated the Act, the Water Quality Rules, or an order of the Director or the Board. Specifically:

1. Utah Code § 19-5-107(1)(a) for discharging pollutants into a waters of the State.
2. Utah Code §§ 19-5-107(3), (3)(a), and Utah Admin. Code R317-8-3(3.1)(3) for making a discharge without first securing a permit from the Director.

E. ORDER

Based on the foregoing Facts and Determinations, and Violations, and pursuant to Utah Code §§ 19-5-107 and 19-5-111, **Hogan & Associates Construction, Inc.** is hereby **ORDERED** to:

1. As of the date of issuance of this NOV/CO, if not already initiated, initiate all action required to come into compliance with all applicable provisions of the Utah Water Quality Act in Utah Code Title 19, Chapter 5 and the Water Quality Rules in Utah Admin. Code, R317.
2. Cease and desist all actions, including discharges, that violate the Utah Water Quality Act.
3. **Within thirty (30) calendar days** of the date of issuance of this NOV/CO, submit a report to the Director that includes the following information in detail:
 - i. A detailed description of all discharges, since the commencement of the project activities, from the Treasure Mountain project site including but not limited to:
 1. Source(s) of any/all discharged waters;
 2. Each specific location of discharge, specifying whether the discharge was to surface waters, ground waters, storm sewer systems, i.e. “storm drains,” and/or sanitary sewer systems; for any/all discharge(s) to storm sewer systems, include mapping of the system, if available, and identify the outfall location(s).
 3. Complete description of any treatment methods used prior to discharge, if conducted;
 4. Laboratory analytical results for any/all samples taken of effluent discharges to surface waters, ground waters, and storm sewer systems; including sample locations, sample metadata, and narrative descriptions;
 5. Laboratory analytical results for any/all samples taken from within surface waters, ground waters, and storm sewer systems; including sample locations, sample metadata, and narrative descriptions; and
 6. Any other laboratory analytical data associated with site waters; including sample locations, sample metadata, and narrative descriptions.

- ii. Information and analytical data on background water quality samples collected as part of, or in support of, the Treasure Mountain project site activities with detailed description of sample locations.
4. **Within thirty (30) calendar days** of the date of issuance of this NOV/CO, submit a plan, for approval by the Director, for sampling and analysis of the sediments in Pace Homer Ditch and at the site of any outfall location(s) identified per ¶ E(3)(i)(2), in order to determine remediation needs.

F. NOTICE

This NOV/CO is effective upon issuance (date signed) and shall become final unless it is administratively contested. This NOV/CO may be contested by filing and serving a written Request for Agency Action as provided by Utah Admin. Code R305-7-303 and R305-7-104(5). Even if this NOV/CO is contested, it remains effective unless a stay is issued or this NOV/CO is rescinded, vacated, or otherwise terminated.

Failure to contest this NOV/CO within the time period and manner prescribed by Utah Admin. Code R305-7-303 constitutes a waiver of any right of administrative contest, reconsideration, review, or judicial appeal.

All reports required under this NOV/CO must be accompanied by the following certification, which is to be signed in accordance with Utah Admin. Code R317-8-3(3.4)(4):

"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 managed 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 or imprisonment for knowing violations."

Utah Code § 19-5-115 provides that violation of the Act, or any permit, rule, or order adopted under the Act, may be subject to a civil penalty not to exceed \$10,000 per day of violation. Failure to comply with this NOV/CO may result in additional civil penalties or criminal sanctions under Utah Code § 19-5-115.

Issued this second day of September 2026.



Candice A. Hasenyager, P.E.
Director, Division of Water Quality