404/Clean Water Act Enforcement: U.S. Environmental Protection Agency and Utah County, Utah Enter into Consent Agreement

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04/30/2025

The United States Environmental Protection Agency ("EPA") and Utah County, Utah entered into an April 23rd Consent Agreement ("CA") addressing alleged violations of the Clean Water Act. See Docket No. CWA-08-2025-0008.

The CA provides that the proceeding concerns an approximately 1,000-acre tract in Utah County, Utah at which construction of the Loafer Mountain Parkway has occurred.

Utah County is stated to have owned, managed, operated on, or otherwise controlled property at the referenced site. Further, Beer Creek is stated to flow through the site which is a perennial tributary of the Bejamin Slough. The Benjamin Slough is stated to be a tributary of Utah Lake and Utah Lake is a navigable-in-fact water.

Utah County is stated to have commenced on or around November 1, 2022, in the course of conducting mechanical land-clearing and filling activities for construction of the Loafer Mountain Parkway, discharged dredged and/or fill material into approximately 1,224 linear feet along a perennial stream channel, including Beer Creek and tributaries of Beer Creek, and 6.04 acres of wetlands adjacent to Beer Creek.

The referenced activities are stated to have been performed using common earthmoving vehicles and equipment. Such vehicles and equipment are described as a "point source" as defined in Section 502(14) of the Clean Water Act. In addition, the material discharged is described as dredged material or fill material.

The placement of dredged and/or fill material into Beer Creek and its adjacent wetlands are stated to constitute a "discharge of pollutants" as defined in Section 502(12) of the Clean Water Act.

An initial inspection is stated to have been conducted by the U.S. Army Corps of Engineers ("Corps") on August 30, 2023. EPA is stated to have conducted an inspection of the site on May 2, 2024.

Utah County is stated to have not been authorized by permit issued pursuant to Section 404 of the Clean Water Act to conduct any of the activities described in paragraph 19 of the CA.

The Corps issued a permit to Utah County in 2017 authorizing certain impacts on Waters of the United States in connection with the Loafer Mountain Parkway project. The permit is stated to have expired before Utah County began the construction and discharges. As a result, the CA provides that Utah County has violated Section 301(a) of the Clean Water Act.

Utah County neither admits nor denies the factual allegations in Section IV of the CA.

A civil penalty of $85,000.00 is assessed.

A copy of the CA can be downloaded here.