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UTAH DEPARTMENT OF ENVIRONMENTAL QUALITY
DIVISION OF WASTE MANAGEMENT AND RADIATION

In the matter of: Promontory Point Landfill Class I Permit Permit No.: 0202R1	**REQUEST FOR PERMIT TERMINATION** By FRIENDS of Great Salt Lake

EXECUTIVE SUMMARY

FRIENDS OF GREAT SALT LAKE requests that the Director of the Division of Waste Management & Radiation Control terminate Promontory Point Resources' ("PPR") Class I permit for the Promontory Point Landfill based on PPR's on-going violations of both permit conditions and Division regulations. In July of 2017, PPR constructed a landfill on the shores of Great Salt Lake, one of the world's most complex hydrogeologic systems. PPR skirted regulations, took shortcuts, violated its permit, and failed to demonstrate the skill and knowledge required by Utah to operate a landfill, especially in this location.

Under Utah law, the Director should terminate a permit when the owner/operator violates solid waste regulations or permit conditions, withholds information, or otherwise threatens the environment. Significant new information shows the high potential for PPR's landfill to cause significant environmental harm while also exposing PPR's violations and flawed permitting process.

PPR violated its permit and Utah law by: 1) constructing a landfill without the required municipal waste contract or necessary approvals

from the Division; 2) constructing the landfill without an approved and technically sound groundwater monitoring system; 3) failing to disclose to the Division and the public required information about the groundwater monitoring system and its inadequacy; 4) constructing a new but unapproved groundwater system in 2018; and, 5) failing to disclose that it expanded its facility boundaries to correct its error of constructing a stormwater outfall on someone else's property.

Finally, PPR's landfill qualifies as a commercial landfill which may not operate in Utah unless it complies with more stringent laws and permit standards. And yet the new information provides strong evidence that PPR cannot meet even the minimum *non-commercial* requirements to demonstrate its landfill does not endanger Great Salt Lake. Based on the new information about PPR's permitting failures and the high potential for the landfill to significantly impact the fragile Great Salt Lake ecosystem, PPR's legal violations and failure to fully disclose required information are appropriate and necessary grounds for the Division to terminate PPR's landfill permit.

GLOSSARY

Abbreviation / Short Citation	Reference
2011 Permit Renewal	2011 Class I Permit Renewal (Sept. 1, 2011)
2016 Permit Modification Application	PPR, Permit Modification and Design Report for Phase 1 of the Promontory Landfill Facility, DSHW-2016-009536 (May 2016)
2017 Contract Removal Letter	PPR Letter to Division Requesting Removal of Waste Contract Requirement Prior to Construction (Jan. 18, 2017)
2017 GW Modification Application	Permit Modification Request: Downgradient Monitoring Well Installation/Relocation (Oct. 25, 2017)
Baskin Review	Robert Baskin, emeritus hydrologist, US Geological Survey, "Review of Hydrogeologic Study of Promontory Point Resources LLC Phase 1 Landfill Cell for Class I Landfill Permit Modification for Promontory Point Resources, LLC" (June 14, 2019)
Director	Director of the Division of Waste Management and Radiation Control
Division	Utah Division of Waste Management and Radiation Control
Division Construction without Notice Email	Email from Division Regarding Construction Without Notice (Jul. 12, 2017)
FRIENDS	FRIENDS OF GREAT SALT LAKE

GSL White Paper	Great Salt Lake Institute, Great Salt Lake as an Ecologically Significant Natural Area (June 8, 2018)
Hydrogeologic Study	PPR, Loughlin Hydrogeologic Study (December 2018)
March 2017 Provisional Permit	Division Class I Permit Modification Letter (Mar. 15, 2017)
Municipal Waste Contract Requirement	2008 Class I Permit Application, Ref. No. 2008.02932 (Sept. 8, 2008), at 67 (Ch. V, Section 5.2)
PPR	Promontory Point Resources, LLC

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Pursuant to UTAH ADMIN. CODE R315-311-2(1) and R305-7-301, FRIENDS OF GREAT SALT LAKE ("FRIENDS") requests that the Director ("Director") of the Utah Division of Waste Management and Radiation Control ("Division") terminate the existing Class I landfill permit for the Promontory Point Landfill.

FRIENDS is a non-profit organization that has as its mission the preservation and protection of the Great Salt Lake ecosystem as well as Great Salt Lake's watershed. The organization also seeks to increase public awareness and appreciation of the Lake through education, research, advocacy, and the arts. The organization has long been involved in those endeavors and advocating for ways in which the public may enjoy the Lake's resources by fishing, bird-watching, boating, photographing, hiking and studying these natural areas. FRIENDS includes members from businesses and industry that depend on and benefit from the Great Salt Lake ecosystem. On behalf of its members, FRIENDS frequently participates in agency processes, such as this one, that affect Great Salt Lake. FRIENDS considers this participation to be critical to its mission and to be valuable as a means of influencing the

administration of lands and water that will lead to the protection and preservation of the greater Great Salt Lake watershed.

PRELIMINARY STATEMENT

FRIENDS requests that the Director terminate Promontory Point Resources, LLC's (PPR) Class I Permit for the Promontory Point Landfill based on PPR's on-going violations of both the Utah Division of Waste Management and Radiation Control (Division) regulations and its permit conditions that put the ecosystem of Great Salt Lake at risk. These violations demonstrate PPR's inability to responsibly construct and operate a landfill and justify termination of the company's permit. In the case of PPR, termination is even more appropriate and critical since violations and compliance failures by a landfill located right on the shores of Great Salt Lake create unacceptable risks to this vital ecosystem and the environment.

This submission outlines PPR's violations, which consist of constructing a landfill cell and a new groundwater monitoring system without the required approvals and without undergoing the appropriate review process. PPR's premature construction actions mean that a fully

constructed landfill cell and groundwater monitoring system now exist that did not receive the required Division approvals or public reviews. PPR's violations and shortcuts also mean that the constructed landfill facility does not have important safety requirements and environmental protections necessary for the complex hydrogeologic system of Great Salt Lake that would have been required had it followed proper procedures. Further, PPR uses its significant expenditures and completed construction to put pressure on the Division to give rubber-stamp approval for what has already been done, even when it does not meet the Division's regulatory standards, since additional requirements will be more expensive and difficult to implement after-the-fact.

This termination request is especially urgent because PPR is seeking to legitimize its violations through a belated request for approval of a second groundwater monitoring system the company has already installed.

FACTUAL BACKGROUND

I. Great Salt Lake Ecosystem

"Great Salt Lake . . . is a unique, fragile, critical, and economically viable body of water, the largest lake in the U.S. west of the Great Lakes and the fourth largest terminal lake in the world. As a terminal lake, any input into the water that does not evaporate remains there in perpetuity, including minerals but also pollutants. Industry and development efforts around the shores of Great Salt Lake must operate without damaging this fragile ecosystem and with the understanding that a terminal lake is particularly sensitive to potential contaminants." Great Salt Lake Institute, Great Salt Lake as an Ecologically Significant Natural Area (June 8, 2018), Exhibit 1 ("GSL White Paper").

Great Salt Lake supports a rich and dynamic ecological and biological system of regional, national and global importance. The amazing abundance of bird life at Great Salt Lake has earned it the designation as a "Western Hemisphere Shorebird Reserve Network Site." The five bays of the Lake have been designated Important Bird Areas by National Audubon because of their unique habitat values and

extraordinary bird uses. The geography of the Lake and changes in Lake elevation combined with man-made causeways create a diversity of lake environments and habitats with varying ranges of salinity.

The Lake is inundated with fields of microbialites, also known as Great Salt Lake coral, that play a vital role in the foodweb of the Lake's ecosystem. Promontory Peninsula is physically connected to 4 of the 5 bays of the Lake. The hydrogeologic connectivity that exists between the peninsula where the landfill is located and the Lake is well documented.

Great Salt Lake is also economically significant on a local, regional and global scale. Mineral extraction, aquaculture and recreational uses of the Lake's ecosystem are responsible for $1.3 billion of total economic output to Utah's annual GDP, $375 million in total labor income, and total employment of 7,700. Great Salt Lake Advisory Council, Economic Significance of the Great Salt Lake to the State of Utah (Jan. 26, 2012), Exhibit 2.

Promontory Point, where the landfill is located, "is characterized by intensely folded, faulted, and highly-fractured rock formations,

abrupt changes in topography at nearby fault scarps, and numerous springs (both active and inactive) that lie along the boundary of, and feed into, [Great Salt Lake]." Dr. Robert Baskin, emeritus hydrologist,[1] US Geological Survey, "Review of Hydrogeologic Study of Promontory Point Resources LLC Phase 1 Landfill Cell for Class I Landfill Permit Modification for Promontory Point Resources, LLC," at 1 (June 14, 2019), Exhibit 3, ("Baskin Review"). The fractures and faults on Promontory Point are a significant factor that complicates the hydrogeologic system where PPR has chosen to locate its landfill.

II. PPR Landfill

The PPR landfill was first permitted in 2004, but the only structural part constructed at that time was a groundwater monitoring system. In 2008, another company again applied for a permit to construct the landfill,[2] and in 2011 the Division issued a landfill permit to Utah Landfill & Ballast (permit no. 0202R1) based on and incorporating the 2008 application. 2011 Class I Permit Renewal (Sept. 2, 2011), Exhibit 6. The landfill permit requires that

[1] Robert L. Baskin Vitae, Exhibit 4.
[2] *See* 2008 Class 1 Permit Application (Sept. 8, 2008), Exhibit 5.

"Construction of the landfill facilities will not begin until a waste stream . . . from agencies of government" is procured ("Municipal Waste Contract Requirement"). *See* PPR Permit, Ref. No. 2008.02932, Exhibit 5 at 67 (containing Ch. V, Section 5.2 with the Municipal Waste Contract Requirement).

Despite the 2011 permit renewal, no additional structural components of the landfill were constructed at that time. On May 3, 2016, PPR submitted a major permit modification application to modify specific parts of the landfill permit: "Liner Alternatives," "Clay (prescriptive) low permeability layer substitution for permitted GCL in liner," "Base grade modification to three percent from five percent," "Leachate recirculation," "Fill slope variation to 3:l gross slope (2.5:1 between 15-foot benches)," "Evapotranspirative final cover alternative." PPR, Permit Modification and Design Report for Phase 1 of the Promontory Landfill Facility, DSHW-2016-009536 (May 2016), Exhibit 7 ("2016 Permit Modification Application"). The 2016 Permit Modification Application did not request changes to the Municipal Waste Contract Requirement or the groundwater monitoring system or

include maps of the location or analysis of the validity of the 2004 groundwater monitoring system for the new 2016 landfill design. *Id.*

In August of 2016 the Division issued a draft permit modification for public review and comment. The public comment closed on December 7, 2016.

On January 17, 2017, more than a month after the public comment period for the permit modifications ended, PPR sent a new permit modification request letter to the Division. PPR Letter to Division Requesting Removal of Waste Contract Requirement Prior to Construction (Jan. 18, 2017), Exhibit 8 ("2017 Contract Removal Letter"). PPR asked that the Municipal Waste Contract Requirement be removed from its permit, which qualifies as a major permit modification. *Id.* There is no record of a written response or change to the permit by the Division in response to this additional modification request.

On March 15, 2017, the Division provisionally approved PPR's modifications of "new owners and operators, a new landfill design and a new financial assurance mechanism." Division Class I Permit

Modification Letter (Mar. 15, 2017), Exhibit 9 ("March 2017 Provisional Permit"). However, the Division advised PPR that three items still required Division approval: "1. Ground Water monitoring requirements"; "2. Final Standby Trust Agreement"; "3. Contracts with local governments." *Id.* As discussed in the Legal Background section, the Director could not fully approve PPR's 2016 Permit Modification Application because these three requirements had not been met. *See* UTAH ADMIN. CODE R315-308-2; 309-1; and Utah Code Ann. § 19-6-108(3)(c) (requirements for groundwater monitoring, financial assurance, and commercial landfill approvals). The Division's identification of these three outstanding requirements qualified the March 2017 Provisional Permit as incomplete and only provisionally approved, since the Director is prohibited from approving a permit that does not meet those three requirements. *See* Utah Code Ann. § 19-6-108(9).

The March 2017 Provisional Permit further notes it is issued to PPR "as owner and operator to own, construct and operate the Promontory Point Landfill … as shown in the permit renewal

application that was determined complete on May 25, 2011, Tracking Number 2008.02932." Exhibit 9. The permit also states, "This Permit does not exempt the Permittee from obtaining any other local, state or federal approvals required for the facility operation." *Id.*

PPR started constructing the landfill in July of 2017. The Division sent an email to PPR expressing surprise and concern that it had started construction without consulting the Division and without fulfilling the three requirements of the March 2017 Provisional Permit letter. Email from Division Regarding Construction Without Notice (Jul. 12, 2017), Exhibit 10 ("Division Construction Without Notice Email"). But PPR continued construction.

On October 25, 2017, PPR submitted another permit modification application to build a new groundwater monitoring system to replace the existing 2004 groundwater monitoring system that, because of PPR's 2017 landfill cell construction, now violated Division regulations. PPR, Permit Modification Request: Downgradient Monitoring Well Installation/Relocation (Oct. 25, 2017), Exhibit 11 ("2017 GW Modification Application"). PPR's major permit modification application

consisted solely of a three-page letter. *Id.* The Division issued a draft permit for public comment on December 12, 2017, and the public comment period ran through February 14, 2018. Numerous commenters—including environmental groups, industry, and state and federal government agencies—raised serious concerns about the groundwater monitoring system and its inadequacy to prevent landfill contamination from reaching Great Salt Lake through the fractured subsurface and contamination pathways present at the landfill.[3] FRIENDS was among those commenters. *See* FRIENDS, Public Comment on Promontory Point Landfill Modification (Feb. 14, 2018), Exhibit 14.

On October 8–14, 2018, without any approval of the 2017 GW Modification Application, PPR constructed a new groundwater monitoring system. *See* PPR, Loughlin Hydrogeologic Study (December 2018), Exhibit 16 ("Hydrogeologic Study).

Since PPR's construction of the system and the close of the public comment period in February of 2018, the Division has continued to seek additional information and evaluation from PPR and provided PPR

[3] *See, e.g.*, Exhibits 12–15.

with opportunities to address Division and public concerns. The Division requested that PPR provide additional information and show its ability to obtain a minimum 95 percent detection rate to "demonstrate that releases will be adequately detected with only three downgradient wells." Division Letter to PPR, at 4, question 19 (Apr. 5, 2019), Exhibit 17. PPR declined both of these requests in a letter on April 24, 2019. PPR Response to Apr. 5 Division Letter (Apr. 24, 2019), Exhibit 18. The Division again requested that PPR provide modeling in a letter on May 14, 2019. *See* Division Letter to PPR re. Apr. 24 Response (May 14, 2019), Exhibit 19. PPR again declined, stating, "We disagree with the suggestion by the DWMRC . . . Such modeling is not required and has never been performed in Utah for the permitting of a Class I or Class V Landfill. . . . In our opinion, it is impractical, arbitrary and unreasonable to conduct groundwater modeling for the stated purpose." PPR, Second Response to Division, at 3-4 (May 22, 2019), Exhibit 20.

On May 29, 2019, the Division provided a limited opportunity for commenters to submit surreplies responding to PPR's reply to their

comments. *See, e.g.*, Division Request for Sur-Reply (May 29, 2019), Exhibit 21.

A more extensive timeline of PPR's permitting actions is available for reference in Exhibit 22, Class I Permitting Timeline.

LEGAL BACKGROUND

I. Statutory and Regulatory Requirements

a. A landfill must receive Division approvals before commencing construction.

Utah law prohibits construction of a landfill until an owner has received all approvals from the Director. Specifically, Utah Code § 19-6-108(3)(a)(1) states: "No person may . . . construct . . . any facility . . . without first submitting and receiving the approval of the director for an operation plan for that facility or site." Utah Code Ann. § 19-6-108(3)(a)(1).

Appropriate location, adequate protection for site hydrology and geology, and compliance with Division rules are all prerequisites for Division approval and issuance of permits or permit modifications. *See* UTAH ADMIN. CODE R315-311-1(2); s*ee also* Utah Code Ann. §§ 19-1-301.5(1); 19-6-102(2)(17). The Director "**may not approve** a proposed

nonhazardous solid . . . waste operation plan unless the plan contains the information the board requires . . . .” Utah Code Ann. § 19-6-108(9) (emphasis added). The information required by the board has been encoded in the Division regulations, *see* UTAH ADMIN. CODE R315-301–320, and thus the Director may not approve an operation plan or permit modification that does not include all of the required information.

For example, a major landfill modification that does not include a groundwater monitoring system that complies with R315-308 may not be approved. Similarly, a landfill without a financial assurance plan that meets the requirements of R315-309 may not be approved, and a landfill without a municipal waste contract may not be approved unless it meets the regulatory requirements for a commercial landfill in R315-310. Any alleged permit approval for a landfill that has not met these requirements would, of necessity, be only a provisional approval since the Director is prohibited from approving a permit that does not include information and approvals required by regulation. In other words, the Director cannot approve landfills in a piecemeal fashion – the entire

facility must meet the regulatory requirements before approval is appropriate.

Under the law, an operation plan, an operation plan modification, or a permit modification are all defined as "permits." *See* UTAH ADMIN. CODE R315-301-2(55);[4] R315-311-2(1)(d)[5]; *see also* Utah Code Ann. §§ 19-1-301.5(1)(e)-(f); 19-6-102(17). Thus, if a permit modification (or an operation plan modification) includes new construction, the owner may not commence that construction before receiving **all** required approvals from the Director.

b. A landfill without a municipal waste contract is a commercial landfill.

Under Utah law, a commercial landfill is "a facility that receives, for profit, nonhazardous solid waste for treatment, storage, or disposal." Utah Code Ann. § 19-6-102(3)(a). All landfills that receive waste for profit are classified as commercial landfills unless they meet one of three exclusions:

[4] " 'Permit' means the plan approval as required by Subsection 19-6-108(3)(a), or equivalent control document issued by the Director to implement the requirements of the Utah Solid and Hazardous Waste Act."
[5] "If the Director determines that major modifications to a permit or plan of operation are justified, a new operational plan incorporating the approved modifications shall be prepared. The modifications shall be subject to the public comment period as specified in Section R315-311-3."

(i) receives waste for recycling;

(ii) receives waste to be used as fuel, in compliance with federal and state requirements; or

(iii) is solely under contract with a local government within the state to dispose of nonhazardous solid waste generated within the boundaries of the local government.

Id. (emphasis added). Thus, a private landfill like the PPR landfill is classified by law as a commercial facility unless and until it goes under contract with a government entity to dispose solely of that entity's municipal waste. The contract requirement is in the present tense, meaning that a facility must already be under contract with the municipality in order to be excluded from classification as a commercial landfill. So, construction of a landfill with no municipal waste contract is categorized as construction of a commercial landfill. In the case of PPR, it started constructed of the landfill in July of 2017, but nearly two years later it still has no municipal waste contract and is clearly a commercial landfill.

Commercial landfills are subject to numerous additional permitting requirements including a proven waste market, a needs assessment, and proof that the landfill provides more environmental benefits than harms. *See, e.g.*, Utah Code Ann. §§ 19-6-108(3);19-6-108 (9) – (11); *see also* UTAH ADMIN. CODE R315-310-3(3)(b) and (c) (requiring all approvals and notifications be completed before construction of a commercial landfill can begin).

c. Division approval is required prior to facility expansions.

Construction of a new landfill cell qualifies as expansion of the solid waste disposal area at an existing facility[6] and is explicitly prohibited before a permit is fully approved: "[E]xpansion at an existing solid waste facility . . . **shall . . . not begin** . . . **until a permit has been granted**" (emphasis added). UTAH ADMIN. CODE R315-310-1(3)(b)(ii). Lateral expansion beyond the defined boundaries of the landfill facility is an expansion of the facility and is also prohibited without a permit.

[6] " 'Lateral expansion of the solid waste disposal area' means . . . the ***construction of a new cell***, module, or unit within the boundaries outlined in the permit application of the current permit under which the facility is operating." Utah Admin. Code R315-301-2(40) (emphasis added).

UTAH ADMIN. CODE R315-301-5; R315-301-2(23).[7] Like an expansion of an existing disposal area, construction on any lateral facility expansion may not commence before a permit is granted by the Division. UTAH ADMIN. CODE R315-310-1(3)(b)(ii).

d. Division approval of engineered construction plans is required prior to commencing construction.

In order to be approved by the Director, all Class I permit applications must include "[an] engineering report, plans, specifications, and calculations" that address specific structural aspects of the landfill. UTAH ADMIN. CODE R315-310-4(2)(c); *see also* Utah Code Ann. § 19-6-108(9) (the Director "may not approve" an application that does not contain these requirements). In order for the Director to approve construction, an applicant must submit "an engineering report, plans, specifications, and calculations" for "quality control and quality assurance **for the construction** of any engineered structure . . . and **for any applicable activity such as ground water monitoring**." UTAH ADMIN. CODE R315-310-4(4)(c)(x) (emphasis added); *see also* UTAH ADMIN. CODE R315-301-2(73) (defining "structural components" of a landfill to include

[7] " 'Expansion of a solid waste disposal facility' " means any lateral expansion beyond the property boundaries outlined in the permit application for the current permit under which the facility is operating."

components like groundwater monitoring wells, which are "used in the construction and operation of a landfill [and are] necessary for the protection of human health and the environment").

In addition, a permit application must include "a groundwater monitoring plan that meets the requirements of R315-308." UTAH ADMIN. CODE R315-310-4(4)(c)(vi). One such requirement is that groundwater monitoring wells must be less than 500 feet from a landfill cell: "downgradient wells . . . must be installed at the closest practicable distance hydraulically down gradient from the unit boundary not to exceed 150 meters (500 feet)." UTAH ADMIN. CODE R315-308-2(2).

e. Major permit modifications require public notice and comment.

Under Division rules, any major modification to a permit or plan of operations is subject to a 30-day public comment period. UTAH ADMIN. CODE R315-311-2(1)(d). All changes which do not qualify as minor are major modifications by default. UTAH ADMIN. CODE R315-311-2(1)(c). Only specifically listed administrative changes or changes "that are more restrictive or provide more protection to health or the

environment" than the existing permit qualify as minor modifications. UTAH ADMIN. CODE R315-311-2(1)(a)(xvii).

II. PPR's Permit and Pre-Construction Requirements

PPR's March 2017 Provisional Permit is dependent upon and incorporates the 2011 permit for the landfill, which in turn relied on and incorporated the permit application submitted in 2008. The March 2017 Provisional Permit states:

> [A] Permit is issued to Promontory Point Resources, LLC as owner and operator to own, construct and operate the Promontory Point Landfill . . . as shown in the permit renewal application that was determined complete on May 25, 2011, **Tracking Number 2008.02932**.

Exhibit 9 at 1 (emphasis added). The 2011 permit incorporates the referenced 2008 permit renewal application, 2008.02932 ("2008 Permit Renewal"), and states:

> The [2008] renewal application, Promontory Landfill LLC Class I Landfill Permit Application, Tracking Number 2008.02932 . . . is hereby incorporated by reference into this

> [2011] Solid Waste Permit . . . . **All representations made in the Permit Application are part of this Permit** and are enforceable under UAC 315-301-5(2).

PPR 2011 Permit Renewal at 2 (emphasis added), Exhibit 6.

PPR's existing permit includes the Municipal Waste Contract Requirement. This provision was required to be completed before construction commenced:

> **Construction** of the landfill facilities **will not begin** until a waste stream of sufficient size and duration is procured to assure a successful venture. A waste stream of at least 25,000 tons annually is **required prior to construction** of facilities. Procurement of this **waste stream** is dependent upon issuance of Request for Proposals **from agencies of government**.

Municipal Waste Contract Requirement, Exhibit 5 at 67 (emphasis added).

On January 18, 2017, after public comment had been closed for the 2016 Permit Modification Application, PPR sent a new permit

modification request to the Division to remove the Municipal Waste Contract Requirement from its permit. 2017 Contract Removal Letter, Exhibit 8. Removal of this requirement would have qualified as a major modification and would have required public notice and comment. However, there is no record of a Division response to PPR's modification request, no modification to the permit, nor was the request ever subject to public notice. Instead the pre-construction stipulation remains active and applicable to PPR and aligns with the regulatory requirement that a landfill have a municipal waste contract in place before construction begins in order to ensure that it does not qualify as a commercial landfill.

In addition to the requirement for an approved waste contract, PPR's permit also requires Division approval of **construction** design drawings and CQC/CQA plans **prior to commencing construction**:

> **Prior to construction** of any landfill cell [or] engineered control system . . . the Permittee shall submit **construction design drawings** and a Construction Quality Control and

> Construction Quality Assurance (CQC/CQA) Plan to the Director for approval.

March 2017 Provisional Permit at § II.A, Exhibit 9.

As explained below, PPR violated several of the above regulations and permit provisions when it constructed a landfill cell and groundwater monitoring wells without: 1) submitting the required documents, plans, and drawings, 2) having acquired the necessary waste stream contract, or, 3) obtaining the requisite approvals. PPR's Class I landfill permit should therefore be terminated as provided for under Utah law.

ARGUMENT: FACTS AND REASONS SUPPORTING TERMINATION

I. PPR Meets the Requirements for Permit Termination

Division regulations allow the Director to terminate a landfill permit when requested:

> A permit may be considered for . . . termination at the request of any interested person . . . as a result of new information or changes in statutes or rules. Requests for . . . termination shall be submitted in writing to the Director and

> shall contain facts or reasons supporting the request.
>
> Requests for permit . . . termination shall become effective only upon approval by the Director.

UTAH ADMIN. CODE R315-311-2(1). The Director should terminate a permit when the owner/operator has violated solid waste regulations or permit conditions, withholds information, or otherwise threatens the environment:

> A permit may be terminated for:
>
> (a) noncompliance with any condition of the permit;
>
> (b) noncompliance with any applicable rule;
>
> (c) failure in the application or during the approval or renewal process to disclose fully all relevant facts;
>
> (d) misrepresentation by the owner or operator of any relevant facts at any time; or
>
> (e) a determination that the solid waste activity or facility endangers human health or the environment.

UTAH ADMIN. CODE R315-311-2(3). Based on new information, FRIENDS presents facts and reasons showing that PPR has violated several of these provisions and its actions thus merit permit termination.

II. New Information Indicates Termination Is Appropriate.

In connection with PPR's permit requests for both the Class I facility and a failed attempt at a Class V facility, significant new information has become available about the hydrogeology at the landfill location that substantiates the high potential for environmental harm from the landfill. The new information also exposes the flawed process PPR pursued for its Class I permit modifications, and PPR's violation of stipulations restricting its construction activities. Much of this information is new information PPR failed to fully disclose in its permit applications. This information should have been available for timely review by the Division and the public before permitting decisions were made.

In connection with PPR's 2017 GW Modification Application in October of 2017, FRIENDS has submitted several GRAMA requests to obtain permitting information and communications between PPR and

the Division, obtained expert analysis, and assembled significant scientific technical data on the landfill area that allows informed evaluation of PPR's actions and legal failures that was not previously possible.

The new information is outlined below and included as Exhibits to this submission. The Exhibits are incorporated by reference in this request.

a. PPR permitting and technical documents.

Since the close of the public commenting period for its permit applications, PPR has submitted many permitting and technical documents that should have been included in its permit applications and should have been subject to public review and comment. PPR should have awaited approval of these documents before it commenced construction of facility modifications, but it did not. These documents relate to PPR's 2016 Permit Modification Application to build a landfill cell (and the March 2017 Provisional Permit), PPR's January 2017 request to remove the Municipal Waste Contract Requirement from its

permit (no Division permitting issued yet), and PPR's 2017 GW Modification Application (no Division permitting issued yet).

In December of 2018 and February of 2019, PPR submitted the Hydrogeologic Study, construction and testing reports, and a groundwater monitoring QA/QC plan, all of which were required for the 2016 Permit Modification Application but were not received by the Division until nearly a year and a half after the cell had been constructed by PPR. *See* Exhibits 16, 23-24.[8]

Further, public comment had been received for both the cell and groundwater well projects without this information being available to the public commenters. *See* UTAH ADMIN. CODE R315-310-3 and -4(2)(b) and (c) (outlining application requirements that were not met, including "a geohydrological assessment" and a "groundwater monitoring plan that meets the requirements of Rule 315-308"). FRIENDS only received this information through its recent GRAMA requests to the Division, since it was not available with either the 2016 Permit Modification Application or the 2017 GW Modification Application or the draft

[8] Loughlin Hydrogeologic Study, Exhibit 16; Loughlin Appendix A Construction and Testing Report, Exhibit 23; PPR Groundwater Monitoring and QA/QC Plan (Feb. 2019), Exhibit 24.

permits that were issued for public comment associated with each of those actions.

b. Active permit requirement for a municipal waste contract.

A thorough investigation of the Division's records was required to find the active Municipal Waste Contract Requirement in PPR's permit. *See* Factual Background, Section II, *supra* and Argument, Section III, *infra*. The Municipal Waste Contract Requirement dates back to a 2008 permit application that was fully incorporated into the 2011 permit which was again fully incorporated by reference into the March 2017 Provisional Permit. *See* Exhibits 5 and 9. Neither PPR nor the Division identified the Municipal Waste Contract Requirement as one of the permit elements being modified in either the 2016 Permit Modification Application or the March 2017 Provisional Permit, and neither provided public notice for such a modification. In fact, PPR acknowledged that this permit provision applied after the public comment process closed through its 2017 Contract Removal Letter request for an additional permit modification to the Division. Exhibit 8. Removal of this requirement would have qualified as a major permit modification under

UTAH ADMINISTRATIVE CODE R315-311-2(1)(a) and (b)), but there is no record of a Division response to this request or any change related to this request in the March 2017 Provisional Permit.

The March 2017 Provisional Permit, like the 2011 permit renewal before it, incorporates the Municipal Waste Contract Requirement by reference. Considerable research and inside knowledge was required to trace the provision through to the 2008 permit application. However, PPR, as the landfill owner and operator, was required to know and abide by the provision, and as its 2017 Contract Removal Letter indicates, PPR did know about the provision. *See supra,* Section III.a.

FRIENDS GRAMA requests revealed the active Municipal Waste Contract Requirement that PPR violated when it began construction in 2017. *See* Exhibit 5 at 67. This qualifies as new information under the permit termination provision because: 1) the Division has not enforced or referenced this permit provision in its communications with PPR; 2) the 2016 draft permit and March 2017 Provisional Permit never referenced the Municipal Waste Contract Requirement or its removal; 3) the Division attached only certain parts of the existing permit to the

2016 draft permit for public review, and this provision (along with hundreds of other pages of enforceable provisions) was not included; 4) the Division failed to either respond to PPR's 2017 Contract Removal Letter or initiate the required public review process which would have been required to remove the Municipal Waste Contract Requirement; and 5) the public is entitled to rely on the Division to follow proper procedures to prevent or enforce known permit violations, to adhere to its own regulations regarding major permit modifications, and to include all relevant information about any major permit modification for public review during the permit approval process.

c. Expert evaluation of the PPR permitting documents and Hydrogeologic Study.

FRIENDS was only able to obtain expert evaluation of PPR's groundwater monitoring system after PPR's tardy submission of the 2018 Hydrogeologic Study and submission of a GRAMA request. The expert evaluation obtained by FRIENDS reveals serious and substantive evidence that the landfill presents a hazard to the delicate ecological environment of Great Salt Lake. Based on the new information from the PPR permitting documents, FRIENDS requested Dr. Robert Baskin, an

expert hydrologist with emeritus status at the U.S. Geological Survey, to evaluate the documents and provide his expert opinion about whether PPR's evaluations and plans were sufficient to address risks of contamination and harm to Great Salt Lake. *See* Baskin Review, Exhibit 3. The Baskin Review found that PPR's 2018 Hydrogeologic Study and the associated plans and reports did not address several significant risk factors for contamination and harm to Great Salt Lake and were also insufficient to support the assumptions and findings PPR relied on to design and construct its landfill cell and the associated groundwater monitoring system. *Id.*

d. White Paper outlining the extreme vulnerability of adjacent resources.

Great Salt Lake Institute prepared a white paper titled, "Great Salt Lake as an Ecologically Significant Natural Area" and submitted it to the Division on June 8, 2018, as "a well-referenced paper for your future purposes, whatever they may be, with respect to the lake ecosystem." GSL White Paper, Exhibit 1; Baxter Email to Division Regarding White Paper, Exhibit 25. The Division replied that the GSL White Paper would be very useful "as we address issues related to the

lake and specifically questions that have been posed concerning the Landfill." Baxter Email to Division Regarding White Paper, Exhibit 25. This was after both the 2016 Permit Modification Application and the 2017 GW Modification Application had been reviewed by the Division and the public comment periods on the draft permits had closed. The White Paper assembles objective technical and historical information about geological and hydrological conditions at and around the landfill site that should be taken into account when evaluating the landfill. GSL White Paper, Exhibit 1.

The White Paper identifies heightened risks for damage to the Great Salt Lake ecosystem through active faults, connections between groundwater at the landfill site and fragile biological systems, and the potential for contamination through fracturing of the subsurface at the landfill site. *Id.* In addition, the GSL White Paper highlights the need for information and studies to understand the bedrock aquifer system in the area where the landfill is located. *Id.* The GSL White Paper draws from the combination of heightened risks and existing gaps in information pertaining to those risks to determine that even strict

compliance with the minimum permitting requirements and Division regulations may not be sufficient to avoid damage to the Great Salt Lake ecosystem. *Id.* Based on this new information, failure to meet the minimum requirements could be catastrophic. *Id.*

III. PPR Is Violating Division Rules and Permit Provisions

PPR has violated, and continues to violate, both its permit and applicable regulations. The list of violations and improper procedures below indicate that PPR either ignores or does not take its permit requirements and the Division regulations seriously. What makes these violations worse is that PPR has never acknowledged the violations and its failure to follow its permit and the regulations. For example, PPR pretends it actually addressed the monitoring wells and their locations in its 2016 Permit Modification Application: "some of the monitoring wells proposed in the Class 1 Permit Modification dated May 2016 were greater than 500 feet from the waste boundary." 2017 GW Modification Application, Exhibit 11. But the monitoring well locations were not included on any maps or described at all in the May 2016 Permit Modification Application, Exhibit 7. PPR's failure to include that

information and analysis before constructing the new landfill cell resulted in a violation of R315-308-2. Now PPR is seeking validation of its violation through after-the-fact corrections while still attempting to hide its oversights, shortcuts, and errors. The long list of violations and failures to fully disclose information described below provide all the facts and evidence the Division needs to terminate PPR's permit.

a. PPR violated its permit and Utah law by constructing the landfill without a municipal waste contract.

Permit violation: PPR's permit requires Director approval of a municipal waste contract before construction:

> Construction of the landfill facilities will not begin until a waste stream of sufficient size and duration is procured to assure a successful venture.

Municipal Waste Contract Requirement, Exhibit 5 at 67. This requirement is included in PPR's March 2017 Provisional Permit through incorporation of "the permit renewal application that was determined complete on May 25, 2011, Tracking Number 2008.02932." March 2017 Provisional Permit at 3, Exhibit 9. As discussed in the next subsection (Utah Law Violation), Division regulations also require a

valid municipal waste contract before a landfill can qualify to start construction as a non-commercial (Class I) facility. *See* UTAH ADMIN. CODE R315-310-3(3)(c) (requiring Director approval for construction of a commercial landfill) and Utah Code Ann. § 19-6-102(3)(a) (defining a commercial landfill and providing an exclusion from commercial landfill requirements only if a landfill "is solely under contract with a local government within the state").

PPR violated both its permit and Division regulations when it began constructing its landfill in July of 2017 without an approved municipal waste contract. The Division contacted PPR to express its surprise and concern:

> Yesterday I saw through a news source that Promontory Point Resources has broken ground at the landfill site for a Class I. Landfill owners usually have communicated to our office on up-coming cell constructions matters like this and schedule pre-construction meetings to identify plans and address any questions from involved parties. From my emails, I didn't see that I or we were made aware of this. . . .

> The permit mod . . . provided that the three conditions[9] [be] met as explained on the cover letter. Please take thorough note of those requirements on the front cover. As of to date, we have not received these.

Division Construction without Notice Email, Exhibit 10. PPR's response was, "I was not aware that it was required or normally done." *Id.*

In fact, PPR's 2017 Contract Removal Letter to the Division—more than eight months after PPR submitted its 2016 Permit Modification Application, five months after the Division issued a draft permit for PPR's review, and over a month after the public comment period had closed for the permit—shows PPR knew of the contract requirement, and that it knew Division approval was necessary to remove that requirement from its permit prior to commencing construction. *See* Exhibit 8; *see also* Exhibit 22, PPR Permitting Timeline. Because no action was taken by the Division to remove the contract provision or respond to PPR's request, PPR's Municipal Waste

[9] The three conditions identified in the referenced permit modification are: "1. Ground Water monitoring requirements . . . 2. Final Standby Trust Agreement, to fulfill financial assurance mechanism . . . . A revised Standby Trust Agreement must be resubmitted with the appropriate signatures with approved payment bonds. 3. Contracts with local governments must be approved prior to receipt of solid waste . . . ." March 2017 Provisional Permit, Exhibit 9.

Contract Requirement remains in effect. Yet PPR constructed the landfill anyway, in violation of this provision.

Utah law violation: Because PPR constructed the landfill without an approved municipal waste contract, PPR's landfill qualifies as a commercial landfill and was required to obtain numerous additional approvals as well as to meet higher environmental and financial standards before commencing construction. *See* Utah Code Ann. §§ 19-6-102(3); 19-6-108(3)(c); UTAH ADMIN. CODE R315-301-2(7);R315-310-3(3). As just one example, the Governor's approval is required before a commercial landfill can start construction, *see* Utah Code Ann. § 19-6-108(3)(c)(i)(C), and PPR did not even attempt to meet this standard before it commenced construction. PPR submitted a Class V permit application (which is required for a commercial landfill) within days of receiving the Class I March 2017 Provisional Permit and before commencing construction of the landfill in July 2017. However, PPR was never able to meet the requirements for a commercial landfill and withdrew its application on February 16, 2018. PPR Letter Withdrawing Class V Application (Feb. 16, 2018), Exhibit 26.

Despite withdrawing its application for a commercial landfill permit, PPR had already constructed a commercial landfill in July of 2017 because it did not have a municipal waste contract. And nearly two years later, PPR still has no contract. Constructing a commercial landfill without meeting the standards and obtaining the legislative, gubernatorial, and Division approvals required by law is a major violation. This omission presents a clear case for permit termination.

b. PPR constructed the landfill without other necessary approvals from the Division.

PPR's permit requires "**Prior to construction** . . . the Permittee shall submit construction design drawings . . . to the Director for approval." March 2017 Provisional Permit at II.A, Exhibit 9. Construction drawings and engineering plans are also a required part of a permit modification application. *See, e.g.*, UTAH ADMIN. CODE R315-310-3 and -4. PPR never submitted or received approval for the required construction design drawings and failed to submit a legally adequate construction plan before commencing construction.

PPR claimed to include the required construction plans in the 2016 Permit Modification application: "This PMDR [Permit

Modification Design Report] provides the construction design drawings for the Phase I development." PPR 2016 Permit Modification Application, Section 1.3, Exhibit 7. However, the construction plans PPR included in Appendix B (Construction Plans) are specifically labeled "FOR PERMIT PURPOSES ONLY – NOT FOR CONSTRUCTION." *See* 2016 Permit Modification Application at App. B, 42-60, Exhibit 7. In response to GRAMA requests, the Division has not provided any additional construction design drawings or communications prior to PPR's surprise commencement of construction. *See* Division Construction without Email Notice, Exhibit 10.

As the Division informed PPR, it is standard practice for a landfill to receive approval from the Division for formal construction plans before commencing construction. *Id.* But it is not just standard practice, it is a permit requirement that PPR failed to meet, and it is a regulatory requirement. *See* UTAH ADMIN. CODE R315-310-4(2)(c).

c. PPR constructed the landfill without the required groundwater monitoring system.

PPR failed to receive the Director's approval for the legally required landfill groundwater monitoring system before commencing

construction of the landfill cell in 2017. To make things worse, PPR failed again to receive the Director's approval before constructing a new, replacement groundwater system in 2018 that still has not received the Director's approval. Under Utah law, a permit that does not include all of the information required by the regulations may not be approved by the Director. *See* Utah Code § 19-6-108(9). PPR's March 2017 Provisional Permit explicitly noted PPR's groundwater monitoring system had not yet been approved by the Director, and PPR has now tacitly admitted that its 2017 construction rendered the 2004 system in violation of R315-308. *See* 2017 GW Modification Application, Exhibit 11.

PPR's landfill plans for the 2016 Permit Modification Application did not include the groundwater monitoring system or maps with well locations for the landfill cell. The only groundwater system in place at that time had been constructed in 2004 for a completely different landfill design. But even the 2004 system was not included in the 2016 Permit Modification Application as required by regulation: "[A] permit application for a Class I . . . Landfill shall contain an engineering

report, plans, specifications, and calculations that address . . . [a] groundwater monitoring plan that meets the requirements of Rule R315-308 . . . [and] quality control and quality assurance for the construction of . . . any applicable activity such as ground water monitoring." UTAH ADMIN. CODE R315-310-4(2)(c)(vi) and (x).

Not only did PPR fail to include the construction documents required for the wells, the 2004 wells that it apparently relied on did not comply with R315-308 because they were more than 500 feet from where PPR constructed the new landfill cell. So, any prior approval those wells may have obtained in 2004 could not be presumed valid. And once PPR constructed a new landfill cell, the old groundwater monitoring system that was never submitted for approval to the Director violated section R315-308. The Division's cover letter to the March 2017 Provisional Permit notified PPR that its "Groundwater Monitoring requirements" had not been approved by the Director and remained an outstanding requirement for the facility. Exhibit 9. This should have alerted PPR that it could not legally begin construction of

either the landfill cell or the groundwater system. But PPR constructed both anyway.

Just three months after commencing the landfill cell construction, PPR submitted the 2017 GW Modification Application in an apparent attempt to obtain the Director's approval for a new and compliant groundwater monitoring system. 2017 GW Modification Application, Exhibit 11. But PPR never disclosed its violation of the groundwater regulations to the Division. Instead, PPR further violated Division rules by failing to submit a complete permit application (a three-page letter was far from sufficient), engineering and construction documents for the system, and by constructing the groundwater monitoring system in October of 2018 without first obtaining approval from the Director. *See* Hydrogeologic Study at 6, Exhibit 16.

IV. PPR Has Failed to Disclose Relevant Facts

As just described, in obtaining the March 2017 Provisional Permit, PPR failed to disclose that it was relying on the 2004 groundwater monitoring wells for the new cell and that those wells violated the Division's location requirements. As discussed above, PPR also failed to

notify the Division that it was commencing construction of both the landfill cell and the groundwater monitoring wells.

a. PPR failed to disclose relevant facts about the 2004 groundwater monitoring wells in its 2017 GW Modification Application.

In its 2017 GW Modification Application, while recognizing that the request qualified as a "Major Permit Modification," PPR claimed that the Division "requested a letter describing the relocation of the wells and stated that the information in this letter and attachment is adequate to serve as a Permit Modification request for the monitoring well relocation and installation." 2017 GW Modification Application, Exhibit 11. However, as discussed in the Legal Background, Section above, a major permit modification qualifies as a permit under Utah law and is subject to the permit approval process, which includes "submittal of the complete information required by Rule R315-310." UTAH ADMIN. CODE R315-311-1(1); *see also* R315-301-2(55) and R315-311-2(1)(d). PPR failed to submit this information, which would have disclosed relevant facts about the wells, their locations, the hydrology and geology of the area. Because PPR failed to disclose this information,

the public was deprived of the opportunity to comment on it when reviewing the draft permit.

b. PPR failed to disclose its intent to construct the groundwater monitoring system without Director approval.

PPR also failed to disclose its intent to construct the groundwater system before obtaining the Director's approval. The public had no notice that the wells were already constructed when it commented on PPR's modification. Instead PPR's after-the-fact permitting and prematurely completed construction of the system frustrate provisions in the regulations meant to ensure the public that the system will be constructed in compliance with the regulations and according to the Division's discretion about where the wells should be located, how many are required, and what aquifers may be affected by the landfill. The public could only learn that the wells had been constructed in October of 2018 through a GRAMA request for PPR's delinquent submissions to the Division. *See, e.g.*, Hydrogeologic Study at 6, Exhibit 16.

This failure is exacerbated because PPR has consistently refused to provide information the Division requests to enable it to make these determinations. *See* FRIENDS Letter to Division Regarding PPR Refusal

to Conduct Modeling (Jun. 6, 2019), Exhibit 27. The Division may request any evaluations, studies, and testing it needs to make accurate and effective determinations about groundwater monitoring. *See* UTAH ADMIN. CODE R315-308-2(2)(b) and 40 C.F.R. 258.51(a) and (d)(1) (giving the Director authority to determine "the relevant point of compliance" for downgradient wells based on "site-specific technical information").

c. PPR failed to disclose that it had expanded its facility boundaries to the Director.

On information and belief, FRIENDS also learned that PPR has failed to disclose that it constructed part of its stormwater system on someone else's property. The Division witnessed PPR's mistake during a site visit, but PPR never reported any correction or mitigation of the problem to the Division.

PPR's permit requires that "Runoff from the landfill as well as the onsite facilities will be routed through the detention basin to capture sediment and pollutants prior to the stormwater discharging from the site." March 2017 Provisional Permit, Section 3-12 (p. 36), Exhibit 9. In order to address its mistake, it appears that PPR entered into a land

transaction with North Shore Rail to try to correct the error. *See* PPR Rail Services LLC-North Shore Rail Services LLC Boundary Line Agreement, Exhibit 28. Constructing on and obtaining land outside of the facility boundaries would qualify as an expansion beyond the defined boundaries of the landfill facility and is prohibited without the Director's approval. *See* UTAH ADMIN. CODE R315-301-5 and R315-301-2(23). Such an construction and expansion may not take place before a permit is granted by the Division, UTAH ADMIN. CODE R315-310-1(b)(ii). Lateral expansion is also prohibited by PPR's permit: "Any expansion of the landfill facility beyond the property boundaries designated in the description contained in Attachment 1 shall require submittal of a new permit application in accordance with UAC R315-310." PPR March 2017 Provisional Permit § V.C. And yet despite permit and regulatory requirements for a permit, it appears PPR failed to disclose and address these relevant facts with the Division.

V. PPR's Facility Endangers the Environment

PPR has constructed a solid waste facility directly adjacent to Great Salt Lake. FRIENDS and numerous others—including government

agencies, academics, environmental experts, and groups knowledgeable about and dedicated to the ecosystem of Great Salt Lake—have issued strong warnings and submitted evidence that the landfill presents real and irreversible risks to the fragile environment of Great Salt Lake. *See* Exhibits 12-15, 18, 29-35.[10] The numerous companies, visitors, birds, and biological organisms that depend upon the ecosystem must be recognized and considered when evaluating PPR's permits. FRIENDS believes the Division should have already denied any landfill permit based purely on these risks and the inability of PPR to ensure these risks are mitigated.

Utah law requires a landfill owner to provide "evidence that the . . . treatment or disposal" of waste "will not be done in a manner that may . . . pose a substantial present or potential hazard to . . . the environment." Utah Code § 19-6-108(9). In addition, an owner must

[10] *See* Final FRIENDS Surreply (Jun 19, 2019), Exhibit 29; Compass Minerals Comments reply PPR Landfill (Jun. 20, 2019), Exhibit 30; Republic Services Sur Reply Letter (Jun. 18, 2018), Exhibit 31; Compass Minerals Public Comment on Promontory Point Landfill Modification (Feb. 14, 2018), Exhibit 12; Republic Services ECDC Wasatch Comment Letter (Feb. 14, 2018), Exhibit 13; FRIENDS Public Comment of Promontory Point Landfill Modification (Feb. 14, 2018), Exhibit 14; Compass Minerals Letter on Proposed Change in Classification of the Proposed Promontory Point Landfill (Dec. 15, 2017), Exhibit 32; Letter From Public Lands & Policy Coordinating Office on Environmental Concerns (Aug. 22, 2017), Exhibit 33; PPR Response to Comment, DSHW 2019-000749 (Jan. 15, 2019), Exhibit 15; PPR Response to Apr. 5 Division Letter (April 24, 2019), Exhibit 18; Letter from Great Salt Lake Advisory Council on Promontory Point Landfill Class V Application (Jan. 10, 2018), Exhibit 34; United States Department of Interior Letter on Promontory Point's Landfill (Dec. 1, 2017), Exhibit 35.

provide information the Director feels is necessary to ensure that its groundwater monitoring system is adequate to protect a complex hydrogeologic system. UTAH ADMIN. CODE R315-308-2(2)(b). These regulations and evidence put the burden on PPR to show its landfill does not pose a substantial hazard to the environment.

Dr. Baskin's Review, the GSL White Paper, and numerous other commenters on the PPR landfill have provided strong evidence that PPR has not sufficiently demonstrated that its landfill does not endanger Great Salt Lake. *See* Baskin Review, Exhibit 3; GSL White Paper, Exhibit 1; and Exhibits 12-15, 18, 29-35.[11] In the face of all the endangerment risks, the Division now has evidence that PPR has made a practice of failing to comply with its permit and the Division's regulations. Because PPR has constructed a landfill on the shores of one of the world's most complex hydrogeologic systems, these failures are especially egregious and do not demonstrate even the minimal level of care and expertise required by Division regulations. *See* UTAH ADMIN. CODE R315-310-11(3). And for this landfill, a far greater standard is

[11] *See supra* note 10.

required than minimal compliance. Permit violations, short-cuts, noncompliance, and flat out refusal of Division requests for more information and analysis certainly do not meet PPR's environmental burden—instead they directly endanger the Lake. *See* Baskin Review, Exhibit 3; GSL White Paper, Exhibit 1; and Exhibits 12-15, 18, 29-35.

REQUEST FOR DIVISION ACTION

PPR's persistent failure to comply with Division regulations has completely undermined any public confidence that PPR's permit will ensure PPR will responsibly operate the landfill or meet even the minimal requirements for protection of the Lake. Based on new information about PPR's permitting failures as well as the potential for the landfill to significantly impact the fragile Great Salt Lake ecosystem, and justified by PPR's violations and failure to fully disclose required information, it is appropriate and necessary that the Division terminate PPR's landfill permit.

For the reasons stated above, FRIENDS requests the Division terminate PPR's existing Class I permit.

DATED this 1st day of July, 2019.

RAY QUINNEY & NEBEKER P.C.

/s/ Marie Bradshaw Durrant
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FRIENDS OF GREAT SALT LAKE

/s/ Rob Dubuc
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EXHIBITS

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1.	Great Salt Lake Institute, Great Salt Lake as an Ecologically Significant Natural Area (June 8, 2018)	4, 31, 32, 48, 49
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3.	Robert Baskin, emeritus hydrologist, US Geological Survey, "Review of Hydrogeologic Study of Promontory Point Resources LLC Phase 1 Landfill Cell for Class I Landfill Permit Modification for Promontory Point Resources, LLC," at 1 (June 14, 2019)	6, 31, 48, 49
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6.	2011 Class I Permit Renewal (Sept. 1, 2011)	6, 21
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8.	PPR Letter to Division Requesting Removal of Waste Contract Requirement Prior to Construction (Jan. 18, 2017)	8, 22, 28, 36
9.	Division Class I Permit Modification Letter (Mar. 15, 2017)	9 10, 20, 23, 28, 34, 36, 38, 41, 45
10.	Email from Division Regarding Construction Without Notice (Jul. 12, 2017)	10, 36, 39
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12.	Compass Minerals Public Comment on Promontory Point Landfill Modification (Feb. 14, 2018)	11, 47, 48, 49
13.	Republic Services ECDC Wasatch Comment Letter (Feb. 14, 2018)	11, 47, 48, 49
14.	FRIENDS Public Comment on Promontory Point Landfill Modification (Feb. 14, 2018)	11, 47, 48, 49
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35.	United States Department of Interior Letter on Promontory Point's Landfill	47, 48, 49

CERTIFICATE OF SERVICE

I hereby certify that on this 1st day of July, 2019, a true and correct copy of the forgoing **REQUEST FOR PERMIT TERMINATION** was hand delivered and e-mailed to the following:

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