NPDES PERMIT NO. NM0028886

FACT SHEET

FOR THE DRAFT NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM (NPDES) PERMIT TO DISCHARGE TO WATERS OF THE UNITED STATES

APPLICANT

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DATE PREPARED

April 1, 2023

PERMIT ACTION

Proposed re-issuance of the current permit issued on July 30, 2018, with an effective date of September 1, 2018, and an expiration date of August 31, 2023.

RECEIVING WATER – BASIN

Unnamed intermittent stream – Pecos River Basin (20.6.4.208 NMAC)

DOCUMENT ABBREVIATIONS

In the document that follows, various abbreviations are used. They are as follows:

4Q3	Lowest four-day average flow rate expected to occur once every three-years
BAT	Best available technology economically achievable
BCT	Best conventional pollutant control technology
BPT	Best practicable control technology currently available
BMP	Best management plan
BOD	Biochemical oxygen demand (five-day unless noted otherwise)
BPJ	Best professional judgment
CBOD	Carbonaceous biochemical oxygen demand (five-day unless noted otherwise)
CD	Critical dilution
CFR	Code of Federal Regulations
cfs	Cubic feet per second
COD	Chemical oxygen demand
COE	United States Corp of Engineers
CWA	Clean Water Act
DMR	Discharge monitoring report
DO	Dissolved oxygen
ELG	Effluent limitation guidelines
EPA	United States Environmental Protection Agency
ESA	Endangered Species Act
FWS	United States Fish and Wildlife Service
mg/l	Milligrams per liter
ug/l	Micrograms per liter
lbs	Pounds
MG	Million gallons
MGD	Million gallons per day
ML	Method minimum level
NMAC	New Mexico Administrative Code
NMED	New Mexico Environment Department
NMIP	New Mexico NPDES Permit Implementation Procedures
NMWQS	New Mexico State Standards for Interstate and Intrastate Surface Waters
NOEC	No observable effect concentration
NPDES	National Pollutant Discharge Elimination System
MQL	Minimum quantification level
O&G	Oil and grease
PFAS	Per- and Polyfluoroalkyl Substances
POTW	Publicly owned treatment works
RP	Reasonable potential
SS	Settleable solids
SSM	Sufficiently Sensitive Method
SIC	Standard industrial classification
s.u.	Standard units (for parameter pH)
SWQB	Surface Water Quality Bureau
TDS	Total dissolved solids
TMDL	Total maximum daily load
TRC	Total residual chlorine
TSS	Total suspended solids
UAA	Use attainability analysis
USGS	United States Geological Service
WLA	Waste Load allocation
WET	Whole effluent toxicity
WQCC	New Mexico Water Quality Control Commission
WQMP	Water Quality Management Plan
WWTP	Wastewater treatment plant

I. CHANGES FROM THE PREVIOUS PERMIT

The changes from the current permit issued on July 30, 2018, with an effective date of September 1, 2018, and an expiration date of August 31, 2023, include:

- Monitoring of PFAS pollutants have been added.
- Monitoring of BOD_5 and TSS have been added for the influent.

II. APPLICANT LOCATION and ACTIVITY

As described in the application, the facility (Outfall 001: Latitude 32° 47' 25" North and Longitude 105° 33' 35" West) is located at 106 Assembly Circle, Sacramento, Otero County, New Mexico.

Under the SIC code 7032, the applicant privately operates Sacramento Camp & Conference Center WWTP, which has a design flow of 0.042 MGD serving seasonal occupants. The plant mainly consists of four reactor tanks treating domestic wastewater. Effluent is chlorinated before discharged via Outfall 001 to an unnamed intermittent stream, thence to Agua Chiquita Creek, thence to Rio Penasco (Segment 20.6.4.208 of the Pecos River Basin). Sewage sludge is hauled off for further treatment/disposal. A map of the facility is attached.

III. EFFLUENT CHARACTERISTICS

Data submitted in Form 2A is as follows:

Parameter	**Max**	**Avg**
	(mg/l unless noted)	
Flow (MGD)	0.013	0.004
pH, minimum, standard units (s.u.)	7.1	N/A
pH, maximum, standard units (s.u.)	8.7	N/A
Temperature (winter), ^oC	48	48
Temperature (summer), ^oC	53	53
Biochemical Oxygen Demand, 5-day (BOD_5)	14.5	14.5
Total Suspended Solids (TSS)	9.98	9.98
E. coli/Fecal coliform (MPN/100 ml)	1	1
Ammonia (as N)	1.4	0.1

Since March 1, 2020, according to echo.epa.gov there was an exceedance of the effluent limitations in DMR as follows:

Parameter	**Date Report**	**Exceedance, 30-day average**	**Exceedance, daily max.**	**Note**
TSS % removal	9/30/2020	80	NA	

IV. REGULATORY AUTHORITY/PERMIT ACTION

In November 1972, Congress passed the Federal Water Pollution Control Act establishing the NPDES permit program to control water pollution. These amendments established technology-based or end-of-pipe control mechanisms and an interim goal to achieve “water quality which provides for the protection and propagation of fish, shellfish, and wildlife and provides for recreation in and on the water”; more commonly known as the “swimmable, fishable” goal. Further amendments in 1977 of the CWA gave EPA the authority to implement pollution control programs such as setting wastewater standards for

industry and established the basic structure for regulating pollutants discharges into the waters of the United States. In addition, it made it unlawful for any person to discharge any pollutant from a point source into navigable waters, unless a permit was obtained under its provisions. Regulations governing the NPDES permit program are generally found at 40 CFR §122 (program requirements & permit conditions), §124 (procedures for decision making), §125 (technology-based standards) and §136 (analytical procedures). Other parts of 40 CFR provide guidance for specific activities and may be used in this document as required.

It is proposed that the permit be reissued for a 5-year term following regulations promulgated at 40 CFR §122.46(a).

V. DRAFT PERMIT RATIONALE AND CONDITIONS

A. OVERVIEW of TECHNOLOGY-BASED VERSUS WATER QUALITY STANDARDS-BASED EFFLUENT LIMITATIONS AND CONDITIONS

Regulations contained in 40 CFR §122.44 NPDES permit limits are developed that meet the more stringent of either technology-based effluent limitation guidelines, numerical and/or narrative water quality standard-based effluent limits, or the previous permit.

Technology-based effluent limitations are established in the proposed draft permit for TSS and BOD and removal percent for each. Water quality-based effluent limitations are established in the proposed draft permit for E. coli bacteria, pH and TRC.

B. TECHNOLOGY-BASED EFFLUENT LIMITATIONS/CONDITIONS

1. General Comments

Regulations promulgated at 40 CFR §122.44(a) require technology-based effluent limitations to be placed in NPDES permits based on ELGs where applicable, on BPJ in the absence of guidelines, or on a combination of the two. In the absence of promulgated guidelines for the discharge, permit conditions may be established using BPJ procedures. EPA establishes limitations based on the following technology-based controls: BPT, BCT, and BAT. These levels of treatment are:

BPT - The first level of technology-based standards generally based on the average of the best existing performance facilities within an industrial category or subcategory.

BCT - Technology-based standard for the discharge from existing industrial point sources of conventional pollutants, including BOD, TSS, *E. coli* bacteria, pH, and O&G.

BAT - The most appropriate means available on a national basis for controlling the direct discharge of toxic and non-conventional pollutants to navigable waters. BAT effluent limits represent the best existing performance of treatment technologies that are economically achievable within an industrial point source category or subcategory.

2. Effluent Limitation Guidelines

The facility is a POTW/POTW-like that has technology-based limits established at 40 CFR Part 133.102, Secondary Treatment Regulation. Pollutants with limits established in this regulation are BOD_5, TSS and pH. BOD_5 limits of 30 mg/l for the 30-day average and 45 mg/l for the 7-day average and 85% percent (minimum) removal are found at 40 CFR §133.102(a). TSS limits; also 30 mg/l for the 30-day average and 45 mg/l for the 7-day average, average and 85% percent (minimum) removal are found at 40 CFR §133.102(b). The limit for pH is 6-9 s.u. based on 40 CFR §133.102(c).

Regulations at 40 CFR §122.45(f)(1) require all pollutants limited in permits to have limits expressed in terms of mass such as pounds per day. When determining mass limits for POTWs or similar, the plant's design flow is used to establish the mass load. Mass limits are determined by the following mathematical relationship:

Loading in lbs/day = pollutant concentration in mg/l * 8.345 (lbs)(l)/(mg)(MG) * design flow in MGD

30-day average BOD_5/TSS loading = 30 mg/l * 8.345 (lbs)(l)/(mg)(MG) * 0.042 MGD = 10.5 lbs/day
7-day average BOD_5/TSS loading = 45 mg/l * 8.345 (lbs)(l)/(mg)(MG) * 0.042 MGD = 15.8 lbs/day

A summary of the technology-based limits (same ones previously) for the facility is:

Parameter	**30-day Avg, lbs/day, unless noted**	**7-day Max, lbs/day, unless noted**	**30-day Avg, mg/l, unless noted**	**7-day Max, mg/l, unless noted**
BOD_5	10.5	15.8	30	45
BOD_5, % removal[1]	≥ 85	---	---	---
TSS	10.5	15.8	30	45
TSS, % removal[1]	≥ 85	---	---	---
pH	N/A	N/A	6.0 to 9.0 s.u.	6.0 to 9.0 s.u.

[1] % removal is calculated using the following equation: [(average monthly influent concentration – average monthly effluent concentration) ÷ average monthly influent concentration] * 100.

3. Pretreatment Regulation

The facility is not subject to the full pretreatment program pursuant to 40 CFR 403.8. Previous general practices are retained in the permit draft.

C. WATER QUALITY BASED LIMITATIONS

1. General Comments

Water quality-based requirements are necessary where effluent limits more stringent than technology-based limits are necessary to maintain or achieve federal or state water quality limits. Under Section 301(b)(1)(C) of the CWA, discharges are subject to effluent limitations based on Federal or State/Tribe WQS. Effluent limitations and/or conditions established in the draft permit are in compliance with applicable State/Tribe WQS and applicable State/Tribe water quality management plans to assure that surface WQS of the receiving waters are protected and maintained or attained.

2. Implementation

The NPDES permits contain technology-based effluent limitations reflecting the best controls available. Where these technology-based permit limits do not protect water quality or the designated uses, additional water quality-based effluent limitations and/or conditions are included in the NPDES permits. State/Tribe narrative and numerical water quality standards are used in conjunction with EPA criterion and other available toxicity information to determine the adequacy of technology-based permit limits and the need for additional water quality-based controls.

3. State Water Quality Standards

The general and specific stream standards are provided in NMWQS (20.6.4 NMAC approved on February 8, 2023). The wastewater flows from the outfall to an unnamed intermittent stream, thence to Agua Chiquita Creek, thence to Rio Penasco (Segment 20.6.4.208 of the Pecos River Basin). Consistent to the previous permit and the TMDL below, EPA retains the designated uses in this permit. The stream designated uses are livestock watering, wildlife habitat, marginal warmwater aquatic life and primary contact (20.6.4.98 NMAC). Since the 4Q3 is zero, applicable criterion must be met at point of discharge.

4. Permit Action - Water Quality-Based Limits

Regulations promulgated at 40 CFR §122.44(d) require limits in addition to, or more stringent than effluent limitation guidelines (technology based). State WQS that are more stringent than effluent limitation guidelines are as follows:

a. pH

For marginal warmwater aquatic life, criteria for pH is between 6.6 and 9.0 s.u. pursuant to 20.6.4.900.H(6) NMAC.

b. Bacteria

Criterion for E. coli bacteria is at 206 cfu (or MPN)/100 ml monthly geometric mean and 940 cfu (or MPN)/100 ml daily maximum pursuant to 20.6.4.98 NMAC.

c. TRC

For wildlife habitat, criteria for TRC is 11 ug/l pursuant to 20.6.4.900.G NMAC. However, if a test result is less than the MQL specified in Part II.A of the permit it can be reported as zero for compliance purpose.

d. Toxics

The CWA in Section 301(b) requires that effluent limitations for point sources include any limitations necessary to meet water quality standards. Federal regulations found at 40 CFR §122.44(d) state that if a discharge poses the RP to cause an in-stream excursion above a water quality criteria, the permit must contain an effluent limit for that pollutant.

All applicable facilities are required to fill out appropriate sections of the Form 2A and 2S, to apply for an NPDES permit or reissuance of an NPDES permit. The new form is applicable not only to POTWs, but also to facilities that are similar to POTWs, but which do not meet the regulatory definition of

"publicly owned treatment works" (like private domestics, or similar facilities on Federal property). The forms were designed and promulgated to "make it easier for permit applicants to provide the necessary information with their applications and minimize the need for additional follow-up requests from permitting authorities," per the summary statement in the preamble to the Rule.

The facility is designated as a minor discharger, Tables B, C and D of Form 2A is not applicable based on the design flowrate. The toxic pollutants are not evaluated due to no data for those are required. Pollutants in Table A and those identified in TMDL section, if applicable, are evaluated/limited in accordance with technology-based limits required at 40 CFR Part 133.102 and NMQWS.

e. DO

For marginal warmwater aquatic life, criterion for DO is 5 mg/L pursuant to 20.6.4.900.H(6) NMAC. The criterion must be met at the point of discharge. Reported DO data show 6.8 mg/L on average. EPA retains DO monitoring at once/quarter since the discharge is relatively small and "does not reach the Agua Chiquita except during storm flows," according to a TMDL mentioned below

f. PFAS

As explained at https://www.epa.gov/pfas, PFAS are a group of synthetic chemicals that have been in use since the 1940s. PFAS are found in a wide array of consumer and industrial products. PFAS manufacturing and processing facilities, facilities using PFAS in production of other products, airports, and military installations can be contributors of PFAS releases into the air, soil, and water. Due to their widespread use and persistence in the environment, most people in the United States have been exposed to PFAS. Exposure to some PFAS above certain levels may increase risk of adverse health effects.[1] EPA is collecting information to evaluate the potential impacts that discharges of PFAS from wastewater treatment plants may have on downstream drinking water, recreational and aquatic life uses.
Although the New Mexico Water Quality Standards do not include numeric criteria for PFAS, the 2022 New Mexico Water Quality Standards narrative criterion for toxic substances at 20.6.4.13(F)(1) NMAC states:

> *"Except as provided in 20.6.4.16 NMAC, surface waters of the state shall be free of toxic pollutants from other than natural causes in amounts, duration, concentrations, or combinations that affect the propagation of fish or that are toxic to humans, livestock or other animals, fish or other aquatic organisms, wildlife using aquatic environments for habitation or aquatic organisms for food, or that will or can reasonably be expected to bioaccumulate in tissues of fish, shellfish and other aquatic organisms to levels that will impair the health of aquatic organisms or wildlife or result in unacceptable tastes, odors or health risks to human consumers of aquatic organisms."*

The 2022 New Mexico Water Quality Standards includes a narrative criteria for monitoring of emerging contaminants at 20.6.4.13(F) that states:
" Emerging Contaminants Monitoring: The department may require monitoring, analysis and reporting of emerging contaminants as a condition of a federal permit under Section 401 of the federal Clean Water Act."

[1] EPA, *EPA's Per- and Polyfluoroalkyl Substances (PFAS) Action Plan*, EPA 823R18004, February 2019. Available at: https://www.epa.gov/sites/production/files/2019-02/documents/pfas_action_plan_021319_508compliant_1.pdf

Since PFAS chemicals are persistent in the environment and may lead to adverse human health and environmental effects, the draft permit requires that the facilities conduct influent, effluent, and sludge sampling for PFAS according to the frequency outlined in the permit.
The purpose of this monitoring and reporting requirement is to better understand potential discharges of PFAS from this facility and to inform future permitting decisions, including the potential development of water quality-based effluent limits on a facility-specific basis. EPA is authorized to require this monitoring and reporting by CWA § 308(a), which states:

> *"SEC. 308. (a) Whenever required to carry out the objective of this Act, including but not limited to (1) developing or assisting in the development of any effluent limitation, or other limitation, prohibition, or effluent standard, pretreatment standard, or standard of performance under this Act; (2) determining whether any person is in violation of any such effluent limitation, or other limitation, prohibition or effluent standard, pretreatment standard, or standard of performance; (3) any requirement established under this section; or (4) carrying out sections 305, 311, 402, 404 (relating to State permit programs), 405, and 504 of this Act— the Administrator shall require the owner or operator of any point source to (i) establish and maintain such records, (ii) make such reports, (iii) install, use, and maintain such monitoring equipment or methods (including where appropriate, biological monitoring methods), (iv) sample such effluents (in accordance with such methods, at such locations, at such intervals, and in such manner as the Administrator shall prescribe), and (v) provide such other information as he may reasonably require;".*

EPA notes that there is currently not an analytical method approved in 40 CFR Part 136 for PFAS. As stated in 40 CFR § 122.44(i)(1)(iv)(B), in the case of pollutants or pollutant parameters for which there are no approved methods under 40 CFR Part 136 or methods are not otherwise required under 40 CFR chapter I, subchapter N or O, monitoring shall be conducted according to a test procedure specified in the permit for such pollutants or pollutant parameters. Therefore, the draft permit specifies that until there is an analytical method approved in 40 CFR Part 136 for PFAS, monitoring shall be conducted using Draft Method 1633. The draft Adsorbable Organic Fluorine CWA wastewater method 1621 can be used in conjunction with draft method 1633, if appropriate. This is consistent with the December 5, 2022 USEPA Memorandum, *Addressing PFAS Discharges in NPDES Permits and Through the Pretreatment Program and Monitoring Programs,* from Radhika Fox.[2]

In October 2021, EPA published a PFAS Strategic Roadmap[3] that described EPA's commitments to action for 2021 through 2024. This roadmap includes a commitment to issue new guidance recommending PFAS monitoring in both state-issued and federally-issued NPDES permits using EPA's recently published analytical method 1633. In anticipation of this guidance, EPA has included PFAS monitoring in the draft permit using draft analytical method 1633. Draft Method 1633 is currently a single lab-validated method. EPA anticipates the method will be multi-lab validated in 2023.[4] If the PFAS monitoring requirement begins before Draft Method 1633 is multi-lab validated, the current single-lab validated Draft Method 1633 shall be used at that time, and then the multi-lab validated Method 1633 shall be used once it is available.

[2] The memo is available at https://www.epa.gov/newsreleases/epa-issues-guidance-states-reduce-harmful-pfas-pollution.
[3] EPA's October 2021 PFAS Strategic Roadmap can be found at: https://www.epa.gov/pfas/pfas-strategic-roadmap-epas-commitments-action-2021-2024.
[4] For more information on Draft Method 1633, see https://www.epa.gov/cwa-methods/cwa-analytical-methods-and-polyfluorinated-alkyl-substances-pfas.

EPA proposes to monitor the PFAS pollutants in the influent, effluent and sewage sludge at once per permit term based on the plant design flowrate and no industrial wastewater.

5. Monitoring Frequency for Limited Parameters

Regulations require permits to establish monitoring requirements to yield data representative of the monitored activity, 40 CFR §122.48(b), and to assure compliance with permit limitations, 40 CFR §122.44(i)(1). Sample frequency is based on Table 9 (page 34 of the NMIP) for design flow less than 0.1 MGD and based on compliance history.

Parameter	Frequency	Sample Type
Flow	Daily	Instantaneous Grab
pH	5/week	Instantaneous Grab
BOD_5/TSS	Once/month	Grab
% Removal	Once/month	Calculation
TRC	5/week	Instantaneous Grab
E. coli Bacteria	Once/month	Grab
DO	Quarterly	Instantaneous Grab
PFAS	Once/permit term	Grab

D. WHOLE EFFLUENT TOXICITY

Procedures for implementing WET terms and conditions in NPDES permits are contained in the NMIP. Table 11 (page 42) of the NMIP outlines the type of WET testing for different types of discharges. Because of the immediate receiving water, an intermittent stream (4Q3 = 0), the CD is 100%. WET testing species for this facility were previously: Ceriodaphnia dubia (Cd) and Pimephales promelas (Pp); the required WET tests passed in previous permit term. EPA retains the WET testing in this permit draft.

The proposed permit requires five (5) dilutions in addition to the control (0% effluent) to be used in the toxicity tests based on a 0.75 dilution series. These additional effluent concentrations must be 32%, 42%, 56%, 75% and 100%. The low-flow effluent concentration (critical low-flow dilution) is defined as 100% effluent. The permittee shall monitor discharge(s) as specified below:

WHOLE EFFLUENT TOXICITY TESTING (7-Day Chronic Static Renewal/ NOEC) *	VALUE	MEASUREMENT FREQUENCY	SAMPLE TYPE
Ceriodaphnia dubia	Report	Once/Term	Grab
Pimephales promelas	Report	Once/Term	Grab

* Monitoring and reporting requirements begin on the effective date of this permit. See Part II of the permit for WET testing requirements and additional WET monitoring and reporting conditions. Grab samples are allowed per method, if needed. This permit does not establish requirements to automatically increase the WET testing frequency after a test failure, or to begin a toxicity reduction evaluation (TRE) in the event of multiple test failures. However, upon failure of any WET test, the permittee must report the test results to EPA and NMED, Surface Water Quality Bureau, in writing, within 5 business days of notification the test failure. EPA and NMED will review the test results and determine the appropriate action necessary, if any.

VI. TMDL REQUIREMENTS

The receiving water segment 20.6.4.208 NMAC, Agua Chiquita (perennial portions McEwan Canyon to headwaters) is listed as impaired in the 2020 - 2024 303(d) List. designated uses of coldwater aquatic life and primary contact are not supported. Causes of the impairments are turbidity and E. coli.

TMDL for turbidity was approved by the EPA on September 21, 2015. According to this document (pages 39 & 40), the facility is a minor discharger ("the effluent does not reach the Agua Chiquita except during storm flows,…") and TSS have been limited, the TMDL assumes the facility does not contribute to the loading of TSS/turbidity in the stream. Therefore, WLA is not included in this TMDL. TMDL for E. coli has not yet been established so the current water quality based limitations will be maintained.

The permit has a standard reopener clause that would allow the permit to be changed if at a later date additional requirements on new or revised TMDLs are completed.

VII. ANTIDEGRADATION

The NMAC, Section 20.6.4.8 "Antidegradation Policy and Implementation Plan" sets forth the requirements to protect designated uses through implementation of the State water quality standards. The limitations and monitoring requirements set forth in the draft permit are developed from the Tribe/State water quality standards and are protective of those designated uses. Furthermore, the policy sets forth the intent to protect the existing quality of those waters, whose quality exceeds their designated use. The permit requirements and the limits are protective of the receiving water, which is protective of the designated uses of that water, NMAC Section 20.6.4.8.A.2. There is no increase in permitted design flow for this permit issuance.

VIII. ANTIBACKSLIDING

The proposed permit is consistent with the requirements to meet Antibacksliding provisions of the Clean Water Act, Section 402(o) and 40 CFR 122.44(l)(2)(i)(B), which state in part that interim or final effluent limitations must be as stringent as those in the previous permit, unless information is available which was not available at the time of permit issuance. No draft permit condition is less stringent than the previous one.

IX. ENDANGERED SPECIES CONSIDERATIONS

According to a report updated on March 20, 2023 for discharge flowpath in Otero County, NM obtained from http://ecos.fws.gov/ipac, there are six endangered (E)/threatened (T) species: New Mexico meadow jumping mouse (E), Mexican spotted owl (T), Kuenzler hedgehog cactus (T), Sacramento Mountains thistle (T), Sacramento prickly poppy (E) and Todsen's pennyroyal (E). These species were previously listed and determined with "no effect" in the previous permit. According to the report, there are no designated critical habitats for all the species downstream from the discharging facility.

In accordance with requirements under section 7(a)(2) of the Endangered Species Act, EPA has reviewed this permit for its effect on listed threatened and endangered species and designated critical habitat. The scope of the Federal Action is limited to the effects of authorizing the discharge and does not include the permittee's decision to cease discharging. After review, EPA has determined that the reissuance of this permit will have "no effect" on listed threatened and endangered species nor will adversely modify designated critical habitat. EPA makes this determination based on the following:

1. EPA has received no additional information since the previous permit issuance which would lead to revision of its determinations.

2. The draft permit is consistent with the States WQS and does not increase pollutant loadings.

3. EPA determines that Items 1 and 2 result in no change to the environmental baseline established by the previous permit, therefore, EPA concludes that reissuance of this permit will have "no effect" on listed species and designated critical habitat.

X. HISTORICAL and ARCHEOLOGICAL PRESERVATION CONSIDERATIONS

The reissuance of the permit should have no impact on historical and/or archeological sites since no new construction activities are planned in the reissuance.

XI. PERMIT REOPENER

The permit may be reopened and modified during the life of the permit if NMWQS are promulgated or revised. In addition, if the State develops a TMDL, this permit may be reopened to establish effluent limitations for the parameter(s) to be consistent with that TMDL. Modification of the permit is subject to the provisions of 40 CFR §124.5.

XII. VARIANCE REQUESTS

None

XIII. CERTIFICATION

The permit is in the process of certification by the State Agency following regulations promulgated at 40 CFR 124.53. A draft permit and draft public notice will be sent to the District Engineer of COE, to the Regional Director of FWS and to the National Marine Fisheries Service prior to the publication of that notice.

XIV. FINAL DETERMINATION

The public notice describes the procedures for the formulation of final determinations.

XV. ADMINISTRATIVE RECORD

The following information was used to develop the draft permit:

A. APPLICATION(s)

EPA Application Forms 2A and 2S dated March 15, 2023.

B. 40 CFR CITATIONS

Sections 122, 124, 125, 133, 136, 434

C. STATE OF NEW MEXICO REFERENCES

New Mexico State Standards for Interstate and Intrastate Surface Water, 20.6.4 NMAC, effective July 24, 2020 and February 8, 2023

State of New Mexico 303(d) List for Assessed Stream and River Reaches, 2022-2024

D. MISCELLANEOUS

Procedures for Implementing National Pollutant Discharge Elimination System Permits in New Mexico – NMIP, March 15, 2012