

# NPDES PERMIT NO. NM0020010

## FACT SHEET

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

### **APPLICANT**

Village of Hatch WWTP  
P.O. Box 220  
Hatch, NM 87937

### **ISSUING OFFICE**

U.S. Environmental Protection Agency  
Region 6  
1445 Ross Avenue  
Dallas, Texas 75202-2733

### **PREPARED BY**

Nasim Jahan  
Environmental Scientist  
NPDES Permits & Technical Branch (6WQ-PP)  
Water Quality Protection Division  
VOICE: 214-665-7522  
FAX: 214-665-2191  
EMAIL: Jahan.nasim@epa.gov

### **DATE PREPARED**

June 23, 2014

### **PERMIT ACTION**

Proposed reissuance of the current National Pollutant Discharge Elimination System (NPDES) permit issued October 28, 2009, with an effective date of December 1, 2009, and an expiration date of July 31, 2014.

Unless otherwise stated, citations to 40 CFR refer to promulgated regulations listed in Title 40, Code of Federal Regulations, revised as of June 30, 2014.

### **RECEIVING WATER – BASIN**

Lower Rio Grande Basin

(this page is left intentionally blank)

**DOCUMENT ABBREVIATIONS**

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

4Q3	lowest four-day average flow rate expected once every three years
BAT	best available technology economically achievable
BCT	best conventional pollutant control technology
BPT	best practicable control technology currently available
BOD5	five-day biochemical oxygen demand
BPJ	best professional judgment
CD	critical dilution
CFR	Code of Federal Regulations
cfs	cubic feet per second
cfu	colony forming units
CFR	Code of Federal Regulations
CWA	Clean Water Act
DMR	discharge monitoring report
ELG	effluent limitation guidelines
EPA	United States Environmental Protection Agency
ESA	Endangered Species Act
ft.	feet (measurement of distance)
FWS	United States Fish and Wildlife Service
lbs	pounds
LA	Load Allocation (a.k.a. waterbody total assimilative capacity)
ug/L	micrograms per liter (one part per billion)
mg/L	milligrams per liter (one part per million)
MGD	million gallons per day
MQL	minimum quantification level
NAICS	North American Industry Classification System
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
NPDES	national pollutant discharge elimination system
O&G	oil and grease
POTW	publically owned treatment works
STORET	EPA Storage and Retrieval Database
s.u.	standard units (for parameter pH)
SWQB	Surface Water Quality Bureau
TMDL	total maximum daily load
TRC	total residual chlorine
TSS	total suspended solids
WET	whole effluent toxicity
WLA	Waste Load Allocations
WQMP	water quality management plan
WQS	water quality standards
WWTP	wastewater treatment plant

---

**CHANGES FROM THE PREVIOUS PERMIT**

Changes from the permit previously issued October 28, 2009, with an effective date of December 1, 2009, and an expiration date of July 31, 2014:

- The Segment code for the Hatch drain has been changed from 20.6.4.101 New Mexico Administrative Code (NMAC) to 20.6.4.98 NMAC.
- A 30-day Average Percent Removal for both BOD5 (Biological Oxygen Demand) and TSS has been added to the discharge limitations.
- The monitoring frequencies for TRC and pH have been changed to correspond with the New Mexico Implementation Plan.

**A. APPLICANT LOCATION and ACTIVITY**

The wastewater treatment plant is located at 1101 E. Herrera Road, in Dona Ana County, New Mexico. The effluent from the treatment plant is discharged into the Hatch Drain, thence to the Rio Grande River in Segment 20.6.4.98 NMEC of the Lower Rio Grande Basin. The discharge is located on that water at Latitude 32° 39' 30" North and Longitude 107° 09' 24" West.

Under the Standard Industrial Classification (SIC) Code 4952, the applicant operates a municipal wastewater treatment plant with a design capacity of 0.30 million gallons per day (MGD) serving a population of approximately 1,900 in Hatch, 450 in Rodey, and 650 in Milagro and Placitas. As described in the application, the wastewater treatment process consists of entrance works (manual bar screen), two sequencing batch reactor (SBR) basins, a post equalization basin, and a chlorine contact chamber. Sludge pathogen control and vector attraction reduction are met with two aerobic digesters, six sludge drying beds, and a sludge bagging system. Treated sludge is disposed of at the Camino Real Landfill in Sunland Park, NM.

The general and specific stream standards are provided in "New Mexico State Standards for Interstate and Intrastate Surface Waters," (20.6.4 NMAC, amended through March 1, 2009). The Hatch Drain is an unclassified intermittent stream of the Rio Grande River and Segment No. 20.6.4.98. The Hatch Drain reaches the Rio Grande River approximately 4000 feet downstream of the facility.

Based on NMED staff observations of the outfall location and an evaluation of readily-available imagery, flow from the outfall would be toward Hatch Drain, thence to a swale, thence to the Segment 20.6.4.98 NMAC of the Lower Rio Grande Basin.

## B. EFFLUENT CHARACTERISTICS

A quantitative description of the discharge(s) described in the EPA Permit Application Form 2A dated December 18, 2013 are presented below:

Table 1

Parameter	Avg	Max
	(mg/l unless noted)	
Flow, million gallons/day (MGD)	0.17	0.29
Temperature, winter	4.4°C	12.8°C
Temperature, summer	26.7°C	34.4°C
pH, minimum, standard units (SU)	---	7.00
pH, maximum, standard units (SU)	---	7.10
Biochemical Oxygen Demand, 5-day (BOD <sub>5</sub> )	7.20	30
Fecal Coliform (FCB) (cfu/100 ml)	47	158
Total Suspended Solids (TSS)	5.60	16.70
Ammonia (NH <sub>3</sub> )	0.50	---
Chlorine, Total Residual (TRC)	0.01	0.01
Dissolved Oxygen	---	---
Total Kjeldahl Nitrogen (TKN)	11	---
Nitrate plus Nitrite Nitrogen	---	---
Oil and grease	7.4	---
Phosphorus, Total	0.05	---
Total Dissolved Solids (TDS)	523	---
Hardness (as CaCO <sub>3</sub> )	---	51
Nitrate (as N)	1.60	---

In addition, On August 30, 2011, a Compliance Evaluation Inspection (CEI) was conducted at the Village of Hatch Wastewater Treatment Plant (WWTP) by the New Mexico Environment Department (NMED), Surface Water Quality Bureau (SWQB). The purpose of this inspection is to determine compliance with the National Pollutant Discharge Elimination System (NPDES) permitting program in accordance with requirements of the federal Clean Water Act. As part of this inspection the Discharge Monitoring Reports (DMRs) for 2009, 2010, and 2011 were reviewed to determine if any excursions of the NPDES permit limits took place during this time period. There were no excursions noted during this time period.

## C. 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 EPA administered 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). The previous permit will expired in July 31, 2014. EPA received the NPDES application on January 27, 2014. The existing permit is administratively continued until this permit is issued.

## **D. DRAFT PERMIT RATIONALE AND PROPOSED PERMIT CONDITIONS**

### **1. 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 BOD5. Water quality-based effluent limitations are established in the proposed draft permit for pH, *E. coli* bacteria, and TRC.

### **2. TECHNOLOGY-BASED EFFLUENT LIMITATIONS/CONDITIONS**

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 BOD5, 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.

Some biological treatment technologies, such as waste stabilization ponds, are capable of achieving significant reductions in BOD5 and TSS but might not consistently achieve the secondary treatment standards for these parameters. Congress recognized that unless alternate limitations were set for facilities with waste stabilization ponds, which often are in small communities, such facilities could be required to construct costly new treatment systems to meet the secondary treatment standards even though their existing treatment technologies could achieve significant biological treatment. To

prevent requiring upgrades where facilities were achieving their original design performance levels, Congress included provisions in the 1981 amendments to the Clean Water Act Construction Grants program (*Public Law 97-117, Section 23*) that required EPA to make allowances for alternative biological treatment technologies, such as waste stabilization ponds. In response to that requirement, in 1984, EPA promulgated regulations at § 133.105 that include alternative standards that apply to facilities using “equivalent to secondary treatment.” A facility must meet the criteria in § 133.101(g) to qualify for application of those alternative standards.

Secondary treatment for publicly owned treatment work (POTW), established at [40 CFR 133.102(a)] and [40 CFR 133.102(b)], are 30 mg/L for the 30-day average and 45 mg/L for the 7-day average and 85% percent (minimum) for BOD<sub>5</sub> and TSS each.

When determining mass limits for POTW’s, the plant’s design flow used to establish the mass load. Mass limits are determined by the following mathematical relationship:

$$\text{Loading in lbs/day} = \text{pollutant concentration in mg/l} * 8.34 \text{ conversion factor} * \text{design flow in MGD}$$

$$30\text{-Day Avg. BOD}_5 \text{ loading (lbs/day)} = 30 \text{ mg/L} * 8.345 \text{ lbs/gal} * 0.3 \text{ MGD}$$

$$30\text{-Day Avg. BOD}_5 \text{ loading (lbs/day)} = 75.06 \text{ lbs/day}$$

$$7\text{-Day Avg.: BOD}_5 \text{ loading (lbs/day)} = 45 \text{ mg/L} * 8.345 \text{ lbs/gal} * 0.3 \text{ MGD}$$

$$7\text{-Day Avg.: BOD}_5 \text{ loading (lbs/day)} = 112.7 \text{ lbs/day}$$

$$30\text{-Day Avg. TSS loading (lbs/day)} = 30 \text{ mg/L} * 8.345 \text{ lbs/gal} * 0.3 \text{ MGD}$$

$$30\text{-Day Avg. TSS loading (lbs/day)} = 75.06 \text{ lbs/day}$$

$$7\text{-Day Avg.: TSS loading (lbs/day)} = 45 \text{ mg/L} * 8.345 \text{ lbs/gal} * 0.3 \text{ MGD}$$

$$7\text{-Day Avg.: TSS loading (lbs/day)} = 112.7 \text{ lbs/day}$$

A summary of the technology-based limits for the facility is:

Table 2

EFFLUENT CHARACTERISTICS	DISCHARGE LIMITATIONS 0.3 MGD Design Flow			
	lbs/Day		mg/L(unless noted)	
Parameter	30-Day Avg.	7-Day Avg.	30-Day Avg.	7-Day Avg.
Flow	N/A	N/A	Measure MGD	Measure MGD
BOD <sub>5</sub>	75	113	30	45
TSS	75	113	30	45
Removal	As low as 85% BOD <sub>5</sub> and TSS	N/A	As low as 85% BOD <sub>5</sub> and TSS	N/A

### 3. WATER QUALITY-BASED LIMITATIONS

#### a. 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 WQS. Effluent limitations and/or conditions established in the draft permit are in compliance with applicable State WQS and applicable State water quality management plans to assure that surface WQS of the receiving waters are protected and maintained, or attained.

#### b. 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 narrative and numerical water quality standards are used in conjunction with EPA criteria and other available toxicity information to determine the adequacy of technology-based permit limits and the need for additional water quality-based controls.

#### c. State Water Quality Standards

Stated previously, the plant is located in Dona Ana County, New Mexico and discharges into the Hatch Drain, thence to the Rio Grande River in Segment No. 20.6.4.98 of the Lower Rio Grande Basin. Based on the New Mexico State Standards for Interstate and Intrastate Surface Water, 20.6.4 NMAC, as amended through August 7, 2013, the designated uses of the receiving water is livestock watering, wildlife habitat, marginal warm water aquatic life and primary contact.

#### d. Permit Action - Water Quality-Based Limits

The Clean Water Act 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 reasonable potential to cause an in-stream excursion above a water quality criterion, the permit must contain an effluent limit for that pollutant. Regulations promulgated at [40 CFR 122.44(d)] require limits in addition to or more stringent than effluent limitation guidelines (technology based).

In accordance with 20.6.4 NMAC, the permit must be developed to allow for the maintenance and attainment of acute numerical criteria at the point of discharge to the receiving stream and for the maintenance and attainment of chronic numerical criteria at the edge of the mixing zone.

Results of all dilutions as well as the associated chemical monitoring of pH, temperature, hardness, dissolved oxygen, conductivity, and alkalinity will be documented in a full report, according to the appropriate test method publication. The full reports required by each test section do not need to be submitted unless requested. However, the full report is to be retained following the provisions of [40 CFR Part 122.41 (j) (2)]. The permit requires the submission of the toxicity testing information to be included on the DMR.

### 1) pH

Stream segment specific WQS do not exist for the unclassified Hatch Drain; however, a pH of 6.6 to 9.0 s.u. is established at 20.6.4.98 NMAC for marginal warmwater aquatic and primary contact uses. The draft permit shall establish pH limitations of 6.6 to 9.0 s.u.

### 2) Bacteria

The *E. coli* bacteria limitations of 126 cfu/100 ml monthly geometric mean and 410 cfu/100 ml daily maximum are established at 20.6.4.98 NMAC for primary contact. These limitations shall be established in the proposed permit.

### 3) Toxics

#### i. General Comments

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 reasonable potential 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 and to facilities that are similar to POTWs, but those facilities, which do not meet the regulatory definition of POTW (like privately owned sanitary wastewater treatment facility, 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. These forms became effective December 1, 1999, after publication of the final rule on August 4, 1999, Volume 64, Number 149, pages 42433 through 42527 of the FRL.

This facility is designated by EPA NPDES as a minor and does not need to fill out the expanded pollutant testing section Part D of Form 2A. There are no toxics that need to be placed in the draft permit except for TRC described below.

#### ii. Total Residual Chlorine

The previous permit established water quality-based effluent limitations for TRC of 11 ug/L. This requirement will be maintained in the draft permit.

#### iii. Critical Conditions

Critical dilutions are used to establish certain permit limitations and conditions. The State of New Mexico WQS allows a mixing zone for establishing pollutant limits in discharges. The mixing zones established by the State of New Mexico do not overlap with tribal/pueblo borders.

Both the NMWQS and NMIP establish a critical low flow designated as 4Q3, as the minimum average four consecutive day flow which occurs with a frequency of once in three years. A low-flow, or 4Q3, of (0) ft<sup>3</sup>/second (cfs) (0.0 MGD) was provided by NMED.

4. 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)]. Technology based pollutants, BOD<sub>5</sub>, TSS, and *E. coli* are continuing the previous monitoring requirements of two times per month.

According to the Procedures for Implementing NPDES Permits in New Mexico NMIP, based on treatment technology and design flow, the frequency for TRC has changed in the proposed 2014 permit to 5/week from the previous 1/day when discharging. The frequency for the pH has increased in the proposed 2014 permit to 5/week from the previous 2/month when discharging. Sample type for both TRC and PH should be instantaneous grab in the proposed permit. Flow is proposed to be monitored daily when discharging, identical to the existing permit. Sample type for BOD and TSS are grab which is consistent with the previous permit. Monitoring must be conducted according to test procedures approved under 40 CFR Part 136, unless other test procedures have been specified in this permit or approved by the Regional Administrator.

5. Whole Effluent Toxicity Limitations

In Section E.3.3) iii above; “Critical Conditions”, it was shown that the CD for the facility is 100%. Based on the nature of the discharge; POTW, the design flow; greater than 0.1 MGD, the nature of the receiving water; intermittent, and the critical dilution; 100%, the NMIP directs the WET test to be a 7-day chronic test using *Ceriodaphnia dubia* and *Pimephales promelas* (fathead minnow) a once per five year frequency. however, if the chronic tests pass, the permittee may substitute annual 48-hour acute testing using the *Daphnia pulex* for the remainder of the permit; otherwise, chronic testing must be continued for the remainder of the permit.

The Hatch Drain has a 4Q3 of 0 MGD; therefore, the critical dilution is 100%. The draft permit proposes the following tests with a dilution series of 32%, 42%, 56%, 75%, and 100% in addition to the control (0% effluent).

During the period beginning the effective date of the permit and lasting through the expiration date of the permit, the permittee is authorized to discharge from Outfall 001 - Hatch Drain, an intermittent stream, thence to the Rio Grande River in Segment 20.6.4.98 NMEC of the Lower Rio Grande Basin. Discharges shall be limited and monitored by the permittee as specified below:

EFFLUENT CHARACTERISTIC	DISCHARGE	MONITORING
	30-DAY AVG MINIMUM	7-DAY MINIMUM
Whole Effluent Toxicity Testing (7-day Static Renewal) (*1,*2,*3)		
<i>Ceriodaphnia dubia</i>	REPORT	REPORT
<i>Pimephales promelas</i>	REPORT	REPORT

EFFLUENT CHARACTERISTIC	DISCHARGE 30-DAY AVG MINIMUM	MONITORING 48-Hr. MINIMUM
-------------------------	---------------------------------	------------------------------

Whole Effluent Toxicity Testing  
(48-Hr Static Renewal) (\*2, \*4)

*Daphnia pulex*

REPORT

REPORT

EFFLUENT CHARACTERISTIC REQUIREMENTS	MONITORING FREQUENCY	TYPE
---	-------------------------	------

Whole Effluent Toxicity Testing  
(7-day Static Renewal) (\*1,\*2,\*3)

*Ceriodaphnia dubia*  
*Pimephales promelas*

Once/Permit Term  
Once/Permit Term

24-Hr. Composite  
24-Hr. Composite

(48-Hr. Static Renewal) (\*2, \*4)

*Daphnia pulex*

Once/Year

24-Hr. Composite

**FOOTNOTES**

- (\*1) Monitoring and reporting requirements begin on the effective date of this permit and shall be performed during the first year of the permit. See Part II, Section E, Whole Effluent Toxicity Testing Requirements for additional WET monitoring and reporting conditions.
- (\*2) If 7-day chronic monitoring passes, 48-Hr. acute monitoring may be substituted for the remainder of the permit. Otherwise, chronic testing must be continued for the remainder of the permit.
- (\*3) See Part II, Section E, Whole Effluent Toxicity Testing (7-Day Chronic NOEC Freshwater) 1.d.
- (\*4) See Part II, Section F, Whole Effluent Toxicity Testing Requirements for additional WET monitoring and reporting conditions.

**E. FACILITY OPERATIONAL PRACTICES**

**1. SEWAGE SLUDGE**

The permittee shall use only those sewage sludge disposal or reuse practices that comply with the federal regulations established at [40 CFR Part 503] "Standards for the Use or Disposal of Sewage Sludge." The specific requirements in the permit apply as a result of the design flow of the facility, the type of waste discharged to the collection system, and the sewage sludge disposal or reuse practice utilized by the treatment works.

## 2. WASTEWATER POLLUTION PREVENTION REQUIREMENTS

The permittee shall institute programs directed towards pollution prevention. The permittee will institute programs to improve the operating efficiency and extend the useful life of the treatment system.

## 3. INDUSTRIAL WASTEWATER CONTRIBUTIONS

The treatment plant has no non-categorical Significant Industrial User's (SIU) and no Categorical Industrial User's (CIU). The EPA has tentatively determined that the permittee will not be required to develop a full pretreatment program. However, general pretreatment provisions have been required.

## 4. OPERATION AND REPORTING

The applicant is required to operate the treatment facility at maximum efficiency at all times; monitor the facility's discharge on a regular basis; and, report the results quarterly. The monitoring results will be available to the public.

### F. 303(d) LIST

Although the unclassified Hatch Drain has not been identified as impaired in the "State of New Mexico Part 303(d) List for Assessed Stream and River Reaches, 2008-2010," the Rio Grande River from El Paso to Las Cruces has been identified as impaired for *E. coli* bacteria. End-of-pipe effluent limitations for *E. coli* bacteria have been established in this proposed permit. EPA has determined the established limitations do not cause or contribute to further impairment. The Rio Grande River is assessed as Category 4A with irrigation, livestock watering, marginal warmwater aquatic life, and wildlife habitat as fully supporting, yet secondary contact has not been assessed. The monitoring schedule is set for 2013. The standard reopener language in the permit allows additional permit conditions if a future TMDL is established.

### G. ANTIBACKSLIDING

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 proposed permit are developed from the 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 limitations are protective of the assimilative capacity of the receiving waters, which is protective of the designated uses of that water, NMAC Section 20.6.4.8.A.2.

### H. ANTIBACKSLIDING

The proposed permit is consistent with the requirements and exemption to meet Antibacksliding provisions of the Clean Water Act, Section 402(o) and 40 CFR Part 122.44(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. The proposed

permit maintains the limitation requirements of the previous permit for BOD<sub>5</sub>, TSS, and *E. coli* and more stringing requirements for pH.

## **I. ENDANGERED SPECIES CONSIDERATIONS**

According to the most recent county listing available at US Fish and Wildlife Service (USFWS), Southwest Region 2 website, <http://ecos.fws.gov/ipac/wizard/trustResourceList!prepare.action>, five species in Dona Ana County are listed as endangered (E), threatened (T), and candidate (C) species. The Sneed pincushion cactus (E) (*Coryphantha sneedii* var. *sneedii*) is the only flowering plant species. Four of the species are avian and include the least tern (E) (*Sterna antillarum*), northern aplomado falcon (E) (*Falco femoralis septentrionalis*), Sprague's Pipit (C) (*Anthus spragueii*), Yellow-Billed Cuckoo (Proposed T) (*Coccyzus americanus*).

The Rio Grande silvery minnow (E) (*Hybognathus amarus*) fish species, Mexican spotted owl (T) (*Strix occidentalis lucida*), southwestern willow flycatcher (E) (*Empidonax traillii extimus*) were previously listed as endangered and threatened species in Dona Ana County however; the current list at the USFWS does not include these species.

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. 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. Permit limitations have only been made more restrictive from the previously issued permit, October 28, 2009.
2. Removal of the The Rio Grande silvery minnow (E) (*Hybognathus amarus*), Mexican spotted owl (T) (*Strix occidentalis lucida*), southwestern willow flycatcher (E) (*Empidonax traillii extimus*) from the US Fish and Wildlife list of threatened and endangered species and critical habitat designation in the area of the discharge since the prior issuance of the permit have been the only changes.
3. EPA concluded “no effect” during the previous issuance of the permit on October 28, 2009, and has received no additional information since then which would lead to revision of that “no effect” determination.
4. EPA determines that Items 1, 2, and 3 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.

## **J. HISTORICAL and ARCHEOLOGICAL PRESERVATION CONSIDERATIONS**

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

## **K. PERMIT REOPENER**

The permit may be reopened and modified during the life of the permit if relevant portions of New

Mexico's Water Quality Standards for Interstate and Intrastate Streams are revised or remanded by the New Mexico Water Quality Control Commission. In addition, the permit may be reopened and modified during the life of the permit if relevant procedures implementing the Water Quality Standards are either revised or promulgated by the New Mexico Environment Department. Should the State adopt a State water quality standard, and/or develop or amend a TMDL, this permit may be reopened to establish effluent limitations for the parameter(s) to be consistent with that approved State standard and/or water quality management plan, in accordance with [40 CFR 122.44(d)]. Modification of the permit is subject to the provisions of [40 CFR 124.5].

#### **L. VARIANCE REQUESTS**

No variance requests have been received.

#### **M. 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, Corps of Engineers, Regional Director of the U.S. Fish and Wildlife Service, and National Marine Fisheries Service prior to the publication of that notice.

#### **N. FINAL DETERMINATION**

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

#### **O. ADMINISTRATIVE RECORD**

The following information was used to develop the proposed permit:

##### **A. APPLICATION(S)**

EPA Application Form 2A received December 18, 2013.

##### **B. 40 CFR CITATIONS**

Sections 122, 124, 125, 133, 136

##### **C. STATE OF NEW MEXICO REFERENCES**

New Mexico State Standards for Interstate and Intrastate Surface Water, 20.6.4 NMAC, as amended through August 7, 2013.

Region 6 Implementation Guidance for State of New Mexico Standards for Interstate and Intrastate Stream, March 15, 2012.

Statewide Water Quality Management Plan, December 17, 2002.

State of New Mexico 303(d) List for Assessed Stream and River Reaches, 2008-2010.

#### D. MISCELLANEOUS REFERENCES

Letter from Dorothy Brown, EPA, to Andy Nunez, Mayor dated January 27, 2014, informing the applicant that its NPDES application received December 18, 2013, is administratively complete.