

**NPDES PERMIT NO. NM0020141
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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ISSUING OFFICE

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DATE PREPARED

May 24, 2011

PERMIT ACTION

Proposed reissuance of the current NPDES permit issued May 17, 2006, with an effective date of July 1, 2006, and an expiration date of June 30, 2011.

RECEIVING WATER – BASIN

Pueblo Canyon – Rio Grande Basin

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
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
ELG	Effluent limitation guidelines
EPA	United States Environmental Protection Agency
ESA	Endangered Species Act
FCB	Fecal coliform bacteria
F&WS	United States Fish and Wildlife Service
mg/l	Milligrams per liter (one part per million)
µg/l	Micrograms per liter (one part per billion)
MGD	Million gallons per day
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
SQL	Minimum quantification level
O&G	Oil and grease
POTW	Publically owned treatment works
RP	Reasonable potential
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
UV	Ultraviolet light
USFWS	United States Fish & Wildlife Service
USGS	United States Geological Service
WLA	Wasteload 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

Changes from the permit previously issued May 17, 2006, with an effective date of July 1, 2006, and an expiration date of June 30, 2011, are:

- A. Outfall 001 is not in use and is prohibited from discharging.
- B. The design flow has been increased from 1.37 MGD to 1.40 MGD.
- C. The segment to which the outfall 002 discharges has been modified from 20.6.4.97 to 20.6.4.98. The requirements pertinent to 20.6.4.98 NMAC have been addressed.
- D. Fecal coliform limits have been removed.
- E. Limits and monitoring requirements for pH have been made more stringent.
- F. Limits and monitoring frequency for *E. coli* bacteria, BOD and TSS have been made consistent with the May 2011 NMIP.
- G. Monitoring frequency for copper and mercury has been increased to be consistent with the May 2011 NMIP.

II. APPLICANT LOCATION and ACTIVITY

As described in the application, the facility is located in Los Alamos County, New Mexico. The facility is located approximately 2.3 miles north west of the Pueblo Canyon Road and NM 502 intersection and borders Pueblo Canyon.

Under the Standard Industrial Classification Code 4952, the applicant operates a POTW with a design flow of 1.40 MGD for a population of 11,940 residents.

Los Alamos WWTP



The influent from the Los Alamos Wastewater Treatment Facility enters the plant through a Parshall flume where influent flow is measured and then it is streamed into a rotating drum screen where the solids are removed and placed in bags to be disposed of at the landfill.

The influent then enters one of two aeration basins. The influent leaves the aeration basin and enters clarification. There are two circular clarifiers available at this facility. The flow then enters the ultraviolet system and the effluent is discharged through a 9-inch Parshall flume.

The discharge is to receiving waters named Pueblo Canyon, thence Los Alamos Canyon, thence the Rio Grande immediately downstream of the Otowi Bridge, in Segment No. 20.6.4.98 of the Rio Grande Basin.

Wasted sludge is pumped into an aerobic digester for detention and treatment. Sludge is then sent to the belt press where polymer is added to further reduce the liquid. The sludge is hauled to a landfill where composting is being performed.

III. EFFLUENT CHARACTERISTICS

A quantitative description of the discharge(s) described in the EPA Permit Application Form 2A received December 30, 2010, are presented below:

POLLUTANT TABLE - 1

Parameter	Max	Avg
	(mg/l unless noted)	
Flow, million gallons/day (MGD)	1.24	0.79
Temperature, winter, °C	17.30	14.10
Temperature, summer, °C	25.10	22.90
pH, minimum, standard units (su)	6.64	N/A
pH, maximum, standard units (su)	7.60	N/A
Biochemical Oxygen Demand, 5-day (BOD ₅)	7.06	2.88
Fecal Coliform (#cfu/100 ml)	91.00	12.00
Total Suspended Solids (TSS)	8.07	3.38
Ammonia (NH ₃)	3.40	0.00
Chlorine, Total Residual (TRC)	0.01	0.00
Dissolved Oxygen (DO)	7.08	6.97
Total Kjeldahl Nitrogen (TKN)	4.20	2.40
Nitrate plus Nitrite Nitrogen	4.90	4.20
Oil & Grease	5.30	5.30
Phosphorus	3.50	3.06
Total Dissolved Solids (TDS)	362.00	334.00
Arsenic	0.0036	0.0035
Chromium	0.0026	0.0015
Copper	0.0097	0.0043
Nickel	0.0020	0.0012
Zinc	0.077	0.050
Cynaide	0.0055	0.0033
Total Phenolic Compounds	0.0051	0.0032
Hardness (as CaCO ₃)	83.00	81.66

Pollutant data taken from the last 3-years of DMRs show one effluent exceedance of the Mercury lb/day limitation in March 2008.

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 EPA administered 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 expires June 30, 2011. The application was received on December 30, 2010. The existing permit is administratively continued until this permit is issued.

V. DRAFT PERMIT RATIONALE AND PROPOSED PERMIT CONDITIONS

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

Regulations contained in 40 CFR §122.44 require that 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 and monitoring requirements are established in the proposed draft permit for TRC, pH, *E. coli* bacteria, ammonia (see section V. H. of the May 2011 NMIP), copper, PCB's, gross alpha emitters and mercury.

B. 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 BOD, TSS, fecal coliform, 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.

The facility is a POTW that has technology-based ELG's established at 40 CFR Part 133, Secondary Treatment Regulation. Pollutants with ELG's established in this Chapter are BOD, TSS and pH. BOD 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 of 30 mg/l

for the 30-day average and 45 mg/l for the 7-day average and 85% percent (minimum) are found at 40 CFR §133.102(b). ELG's for pH are between 6-9 s.u. and are found at 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 POTW's, the plant's design flow is used to establish the mass load. Mass limits are determined by the following mathematical relationship:

The current permit issued May 16, 2006 with an effective date of July 1, 2006 and an expiration date of June 30, 2011, relied on the previous design capacity of 1.37 MGD to determine loading limitations in lieu of seeking review under New Mexico's anti-degradation policy. The proposed permit continues to utilize the 1.37 MGD design capacity for these calculations.

Loading in lbs/day = pollutant concentration in mg/l * 8.345 lbs/gal * design flow in MGD
 30-day average BOD loading = 30 mg/l * 8.345 lbs/gal * 1.37 MGD
 30-day average BOD loading = 343 lbs

Loading in lbs/day = pollutant concentration in mg/l * 8.345 lbs/gal * design flow in MGD
 7-day average BOD loading = 45 mg/l * 8.345 lbs/gal * 1.37 MGD
 7-day average BOD loading = 514 lbs

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

Final Effluent Limits – 1.40 MGD design flow.

EFFLUENT CHARACTERISTICS	DISCHARGE LIMITATIONS			
	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 ₅	343	514	30	45
BOD ₅ , % removal, minimum	≥ 85% (*1)	---	---	---
TSS	343	514	30	45
TSS, % removal, minimum	≥ 85% (*1)	---	---	---
pH	N/A	N/A	6.0 – 9.0 standard units	

Footnotes:

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

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 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.

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 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.

3. State Water Quality Standards

The general and specific stream standards are provided in NMWQS (20.6.4 NMAC, amended through January 14, 2011). The discharge is to receiving waters named Pueblo Canyon, thence Los Alamos Canyon, thence the Rio Grande immediately downstream of the Otowi Bridge, in Segment No. 20.6.4.98 of the Rio Grande Basin. The designated uses of the receiving water(s) are primary contact, livestock watering, wildlife habitat and marginal warmwater aquatic life.

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

Stream segment specific WQS for pH ranges from 6.6 to 9.0 standard units as found in 20.6.4.900 D of the NMAC.

b. BACTERIA

Stream segment specific WQS for *E. coli* bacteria are 126 cfu/100 ml monthly geometric mean and 410 cfu/100 ml single sample maximum as found in 20.6.4.900 D.

c. 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, 2S or 2E, to apply for an NPDES permit or reissuance of an NPDES permit. The 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. 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. The facility is designated as a major, and must fill out the expanded pollutant testing section Part D of Form 2A. A reasonable potential analysis was conducted. The analysis demonstrated that no limits are required by the RP analysis. However, the previous permit established limits for copper and mercury. The copper and mercury limits developed in the previous permit will be continued in the draft permit.

ii. TRC

In the event the facility uses chlorine to control bacteria or disinfect control equipment, the 11 µg/l TRC limit from the previous permit will be continued in the draft permit.

iii. Metals

The facility’s daily and 30-day average mercury and copper limits from the previous permit will be continued in the draft permit. The monitoring frequency is adjusted to three times per week to match the May 2011 NMIP.

iv. Critical Dilution

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. States 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.

For permitting purposes of certain parameters such as WET, the critical dilution of the effluent to the receiving stream is determined. The critical dilution, CD, is calculated as:

$CD = Q_e / (F \cdot Q_a + Q_e)$, where:

Q_e = facility flow (1.4 MGD)

Q_a = critical low flow of the receiving waters (0 MGD [= 0 cfs])

F = fraction of stream allowed for mixing (1.0)

$$\begin{aligned} CD &= 1.4 \text{ MGD} / [(1.0)(0) + 1.4] \\ &= 1 \\ &= 100\% \end{aligned}$$

v. Gross Alpha Emitters and Poly Chlorinated Biphenyls

The unclassified water Pueblo Canyon is listed on the 2010 - 2012 State of New Mexico CWA §303(d)/§305(b) Integrated Report. The probable causes of impairment are listed as gross alpha emitters and PCBs. The facility is required to test the effluent at outfall 002 using EPA Method 1668B: Chlorinated Biphenyl Congeners in Water, Soil, Sediment, Biosolids, and Tissue by HRGC/HRMS or by a more recent version of the method. The facility is also required to test the effluent at outfall 002 using EPA Method 900: Gross Alpha and Gross Beta Radioactivity in Drinking Water or by a more recent version of the method.

D. 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 the NMIP. Technology based pollutants; BOD and TSS are proposed to be monitored once per week. Flow is proposed to be monitored continuously by totalizing meter. These frequencies have been adjusted to be consistent with the NMIP. BOD and TSS are to be sampled as 6-hour composite samples which is consistent with the previous permit.

Water quality-based pollutant monitoring frequency for *E. coli* shall be once per week by grab sample which is consistent with the NMIP. TRC shall be monitored daily, using instantaneous grab samples. pH shall be monitored daily, using instantaneous grab samples. Regulations at 40 CFR §136 define instantaneous grab as being analyzed within 15-minutes of collection. Copper and mercury shall be monitored three times per week using grab samples, identical to the previous permit. PCB and gross alpha emitter sampling is required once in the lifetime of the permit and the analysis must occur within one year of the reissuance of the permit.

E. WHOLE EFFLUENT TOXICITY LIMITATIONS

OUTFALL 002

In Section V.C.4.c.iv above; “Critical Dilution”, it was shown that the critical dilution, CD, for the facility is 100%. Based on the nature of the discharge; POTW, the design flow; greater than 1.0 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* at a once per three months frequency for the first year of the permit. If all these four tests pass both the lethal and sub-lethal test endpoints then the permit may allow a frequency reduction of once per six-months for *Ceriodaphnia dubia* and once per year for *Pimephales promelas*. Any failure shall re-establish all tests for both the affected species to once per three-month for the remainder of the permit. Both test species shall resume monitoring at a once per three months frequency on the last day of the permit.

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 shall

be 32%, 42%, 56%, 75%, and 100%. The low-flow effluent concentration (critical low-flow dilution) is defined as 100% effluent.

The previous permit established WET biomonitoring with CD = 100%. DMR reports reveal five (5) passing tests for the *Daphnia pulex* species during the last permit term. The EPA Reasonable Potential Analyzer (See Appendix A) indicates that RP exists. However, EPA is overruling this finding because Los Alamos WWTF has not failed a WET test during their last term and is conducting tests at the maximum critical dilution. EPA concludes that this effluent does not cause or contribute to an exceedance of the State water quality standards. Therefore WET limits will not be established in the proposed permit.

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 002 - the discharge to Pueblo Canyon of the treatment system aeration basin. The aeration basin receives process area wastewater, process area stormwater, and treated sanitary wastewater. Discharges shall be limited and monitored by the permittee as specified below:

<u>EFFLUENT CHARACTERISTIC</u>	<u>DISCHARGE MONITORING</u>	
	<u>30-DAY AVG MINIMUM</u>	<u>7-DAY MINIMUM</u>
Whole Effluent Toxicity Testing (7 Day Static Renewal) <u>1/</u>		
<u>Ceriodaphnia dubia</u>	REPORT	REPORT
<u>Pimephales promelas</u>	REPORT	REPORT

<u>EFFLUENT CHARACTERISTIC</u>	<u>MONITORING REQUIREMENTS</u>	
	<u>FREQUENCY</u>	<u>TYPE</u>
Whole Effluent Toxicity Testing (7 Day Static Renewal) <u>1/</u>		
<u>Ceriodaphnia dubia</u>	1/Quarter	24-Hr. Composite
<u>Pimephales promelas</u>	1/Quarter	24-Hr. Composite

FOOTNOTES

1/ Monitoring and reporting requirements begin on the effective date of this permit. See Part II, Whole Effluent Toxicity Testing Requirements for additional WET monitoring and reporting conditions.

VI. FACILITY OPERATIONAL PRACTICES

A. SEWAGE SLUDGE

The permittee shall use only those sewage sludge disposal or reuse practices that comply with the federal regulations established in 40 CFR Part 503 "Standards for the Use or Disposal of Sewage Sludge." EPA may at a later date issue a sludge-only permit. Until such future issuance of a sludge-only permit, sludge management and disposal at the facility will be subject to Part 503 sewage sludge requirements. Part 503 regulations are self-implementing, which means that facilities must comply with them whether or not a sludge-only permit has been issued. Part IV of the draft permit contains sewage sludge permit requirements.

B. WASTE WATER 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.

C. 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. The facility is required to report to EPA, in terms of character and volume of pollutants any significant indirect dischargers into the POTW subject to pretreatment standards under §307(b) of the CWA and 40 CFR Part 403.

D. OPERATION AND REPORTING

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

VII. 303(d) LIST

The unclassified water Pueblo Canyon is listed on the 2010 - 2012 State of New Mexico CWA §303(d)/§305(b) Integrated Report. Pueblo Canyon is listed as not attaining its designated uses of livestock watering, marginal warmwater aquatic life and wildlife habitat. The probable causes of impairment are listed as gross alpha emitters and PCBs. WLAs have not been developed for Pueblo Canyon. The portion of the Rio Grande that the discharge enters is not listed as impaired and WLAs were not developed for the June 2, 2005, TMDL for the Middle Rio Grande Watershed. Additional permit conditions are included at this time to address impaired water issues. PCB congener testing using EPA Method 1668B is required as is radioactivity testing using EPA method 900. Further, the standard reopener language in the permit allows additional permit conditions if warranted by future changes either to State or Tribal waters.

VIII. 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 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 limits 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. The proposed permit maintains the mass loading requirements of the previous permit for BOD and TSS. The pollutant requirements for pH and *E. coli* bacteria have been made more stringent from the previous permit.

IX. 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)(i)(A), which state in part that interim or final effluent limitations must be as stringent as those in the previous permit, unless material and substantial alterations or additions to the permitted facility occurred after permit issuance which justify the application of a less stringent effluent limitation. The change from fecal coliform bacteria to *E. coli* does not constitute antibacksliding since only the indicator bacteria have changed.

X. ENDANGERED SPECIES CONSIDERATIONS

According to the most recent county listing available at USFWS, Southwest Region 2 website, <http://ifw2es.fws.gov/EndangeredSpecies/lists/>, three species in Los Alamos County are listed as endangered (E) or threatened (T). They are the Black-footed ferret (E) (*Mustela nigripes*), the, the Southwestern willow flycatcher (E) (*Empidonax traillii extimus*) and the Mexican spotted owl (T) (*Strix occidentalis lucida*).

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. In the previous permit issued May 17, 2006, EPA made a “no effect” determination for federally listed species. EPA has received no additional information since then which would lead to a revision of that “no effect” determination. EPA determines that this reissuance will not change the environmental baseline established by the previous permit, and therefore, EPA concludes that reissuance of this permit will have “no effect” on the listed species and designated critical habitat.

2. No additions have been made to the USFWS list of threatened and endangered species and critical habitat designation in the area of the discharge since prior issuance of the permit.

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

4. The draft permit is no less restrictive from the previous permit.

5. EPA determines that Items 1, thru 4 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.

XI. 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.

XII. PERMIT REOPENER

The permit may be reopened and modified during the life of the permit if State Water Quality Standards are promulgated or revised. In addition, if the State amends 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.

XIII. VARIANCE REQUESTS

No variance requests have been received.

XIV. 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; to the Regional Director of the U.S. Fish and Wildlife Service and to the National Marine Fisheries Service prior to the publication of that notice.

XV. FINAL DETERMINATION

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

XVI. ADMINISTRATIVE RECORD

The following information was used to develop the proposed permit:

A. APPLICATION(S)

EPA Application Form 2A received December 30, 2010.

B. 40 CFR CITATIONS

Citations to 40 CFR are as of April 15, 2011.
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 January 14, 2011.

Procedures for Implementing National Pollutant Discharge Elimination System Permits in New Mexico, November 2009.

Statewide Water Quality Management Plan, May 13, 2003.

State of New Mexico 303(d) List for Assessed Stream and River Reaches, 2010 - 2012.