

# **NPDES PERMIT NO. NM0024848**

## **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 1, 2015

### **PERMIT ACTION**

Renewal of a permit previously issued on July 28, 2010, with an effective date of September 1, 2010, and an expiration date of August 31, 2015.

### **RECEIVING WATER – BASIN**

Rio Puerco (Arroyo Chijuilla) – Rio Grande Basin (Segment 20.6.4.131)

**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
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
ML	Minimum quantification level
O&G	Oil and grease
POTW	Publically owned treatment works
RP	Reasonable potential
SS	Settleable solids
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

Changes from the permit previously issued on July 28, 2010, with an effective date of September 1, 2010, and an expiration date of August 31, 2015, are as follow:

- Removal percentage for BOD<sub>5</sub> and TSS has been established.
- Criteria for E. coli has been changed.
- TRC limit has been changed to 11 ug/L from 19 ug/L.
- DO monitoring has been added.
- Aluminum monitoring has been removed.
- Frequency for nutrients and total ammonia has been revised.
- Limits for WET has been established.
- pH limit has been changed to 6.6-9.0 from 6.6-8.8

## II. APPLICANT LOCATION and ACTIVITY

As described in the application, the facility (Latitude 35° 59' 35" North and Longitude 106° 59' 13" West) is located at Mile Maker 2 on NMSR 197, Cuba, Sandoval County, New Mexico.

Under the SIC code 4952, the applicant operates Village of Cuba WWTF, which has a design flow of 0.144 MGD providing sanitary services for approximately 350-population. The plant is an Aero-Mod Extended WWTP, which is fundamentally an activated sludge process utilizing the sequential oxidation (SEQUOX) biological nutrient removal process, a patent nutrient removal process. Provided levels of treatment include primary, secondary and advanced ones. Effluent is UV-disinfected before discharged to the Rio Puerco. The permittee has planned to land-apply the effluent in the future; planned improvement construction starts in June 2015 and operation begins in January 2015. Under the previous permit, the discharge was authorized from November 1 to March 31 after three years from the permit effective date. Sewage sludge is dewatered and dried before transported to a site just north of the plant for land application. 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)	0.22	0.10
pH, minimum, standard units (su)	7.44	NA
pH, maximum, standard units (su)	7.91	NA
Temperature (C), winter	15.6	11.88
Temperature (C), summer	25	18.11
Biochemical Oxygen Demand, 5-day (BOD <sub>5</sub> )	20	7.13
E. coli (cfu/100 ml)	14.5	2.9
Total Suspended Solids (TSS)	40	11.38
Ammonia (as N)	14.82	0.74
TRC	N/A	N/A
DO	3.75	2.01
Total Kjeldahl Nitrogen (TKN)	2.7	1.84
Nitrate + Nitrite Nitrogen	2.6	0.89
Oil & Grease	No Data	No Data

Phosphorus (Total)	0.27	0.19
TDS	No Data	No Data

Since September 1, 2013, when permittee has completed Phase-1 improvement, there have been exceedances according to the DMRs as follows:

Date	Parameters	30-day average	7-day average	Daily maximum
2/28/14	BOD, mg/L	31	756	
11/30/13	Total Nitrogen, mg/L	24		28
12/31/13	Total Nitrogen, mg/L	26		28
1/31/14	Total Nitrogen, mg/L	31		31
2/28/14	Total Nitrogen, mg/L	20		30
3/31/14	Total Nitrogen, mg/L	30		34
2/28/14	Total Phosphorus, mg/L	2		3
11/30/13	E. coli, cfu/100 ml	2511		724196

**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 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.

The application was dated March 1, 2015. 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 PROPOSED PERMIT 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 percent removal for each. Water quality-based effluent limitations are established in the proposed draft permit for *E. coli* bacteria, pH, TRC, nutrients and total ammonia.

**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 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; 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). ELG’s for pH are between 6-9 s.u. and are found at 40 CFR §133.102(c). The draft permit establishes new limits for percent removal for both BOD and TSS. Since these are technology-based there is no compliance schedule provided to meet these limits. Compliance is required on the permit effective date.

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:

$$\text{Loading in lbs/day} = \text{pollutant concentration in mg/l} * 8.345 \text{ (lbs)(l)/(mg)(MG)} * \text{design flow in MGD}$$

$$30\text{-day average BOD/TSS loading} = 30 \text{ mg/l} * 8.345 \text{ (lbs)(l)/(mg)(MG)} * 0.144 \text{ MGD} = 36 \text{ lbs/day}$$

$$7\text{-day average BOD/TSS loading} = 45 \text{ mg/l} * 8.345 \text{ (lbs)(l)/(mg)(MG)} * 0.144 \text{ MGD} = 54 \text{ lbs/day}$$

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

Effluent Characteristic	Discharge Limitation			
	lbs/day, unless noted		mg/l, unless noted	
Parameter	30-day Avg	7-day Max	30-day Avg	7-day Max

BOD	36	54	30	45
BOD, % removal <sup>1</sup>	≥ 85	---	---	---
TSS	36	54	30	45
TSS, % removal <sup>1</sup>	≥ 85	---	---	---
pH	N/A	N/A	6.0 to 9.0 s.u.	

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

## 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 approved on June 5, 2013). In the previous permit, segment of the receiving water was specified at 20.6.4.99 NMAC. NMED has changed it to 20.6.4.131 since then. The stream designated uses are warmwater aquatic life, irrigation, livestock watering, wildlife habitat and primary contact.

### 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 primary contact and warmwater aquatic life, criteria for pH is between 6.6 and 9.0 s.u. pursuant to 20.6.4.900.D and H(5) NMAC. pH of 6.6 to 8.8 established previously is water segment information which was not available when EPA reissued the permit in 2010. The change of limitation is in compliance with the CWA section 402.o(2) exceptions for antibacksliding.

b. Bacteria

For primary contact, criteria for E. coli bacteria is at 126 cfu/100 ml monthly geometric mean and 410 cfu/100 ml daily maximum pursuant to 20.6.4.900.D NMAC.

c. 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 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, 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.

Alum flocculation is used in the treatment process; aluminum (Al) is analyzed for RP. NMED provide data for 4Q3 (0.965 cfs, used in TMDL), total recoverable Al (515.8 ug/L, geo. mean value from 3/2011 to 9/2011) and hardness of 427 mg/L for the receiving water. Additional data provided by the permittee on April 22, 2015 indicates geometric mean value for Al (total recoverable) was 123.2 ug/L from 7/2013 to 3/2015. With the instream concentration of hardness (220 ug/L or higher), the criteria for Al as below pursuant to 20.6.4.900.I(3) and J(2) NMAC:

Aluminium	Irrigation (dissolved)	Acute (total recoverable)	Chronic (total recoverable)
Criteria, ug/L	5,000	10,071	4,035
Effluent, ug/L (geo. mean)	35.4 (dissolved)	123.2 (total recoverable)	123.2 (total recoverable)

To determine if a pollutant has a reasonable potential to exceed a water quality criteria the following calculation is performed with a steady-state mass balance model in the NMIP:

$$\text{Instream concentration (chronic)} = ((FQa \times Ca) + (Qe \times Ce \times 2.13)) \div (FQa + Qe) = 468.2 \text{ ug/L (Al)}$$

Where:

- Ce is the geometric mean effluent concentration, 123.2 ug/l (Al)
- Ca is the ambient concentration upstream of discharger, 515.8 ug/l (Al)
- Qe is the effluent flow rate, 0.2232 cfs (0.144 MGD)
- Qa is the 4Q3 flow rate, 0.965 cfs
- F is the fraction of stream allowed for mixing, 1.0.

Instream concentration of hardness is calculated at above 220 mg/L, using the same equation above, with Ca of 427 mg/L and Ce of 20 mg/L (most conservative assumed-value). The effluent geometric mean values for Al was far below the criteria for irrigation and acute and there is no RP because the calculated instream concentration is less than the chronic criteria. Therefore, EPA establishes no limit

for AI and removes the monitoring report for AI in the previous permit because no RP exists and AI was delisted in 303(d) List in 2014.

d. TRC

The facility uses UV to disinfect the effluent. However, TRC of 11 µg/l (for wildlife habitat; 20.6.4.900.G NMAC) is established in the draft permit in case chlorine based-product is used in the treatment process.

e. DO

For warmwater aquatic life, criteria for DO is 5.0 mg/L or more pursuant to 20.6.4.900.H(5) NMAC. Effluent DO was reported with 2.01 mg/L on average. EPA uses LA-QUAL version 9.3 to model DO along this receiving stream; some of the major factors used are effluent DO, 4Q3 and BOD5 (30 mg/L for monthly average, 45 mg/L for 7-day maxima). The modeled output shows DO stays below 5 mg/L (the criteria is not met) for 0.75 miles downstream from the facility (See attached graph; other detail information is available upon request). The UV system is about 500 feet apart from the entrance point at the Rio Puerco; effluent DO at this entrance point is believed higher than the reported value. EPA proposes monitoring report for DO at this entrance with frequency of quarterly. This collected results will be evaluated for the next permit renewal cycle.

#### 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 Table 9 (page 34 of the NMIP) for design flow between 0.1 and 0.5 MGD and based on compliance history.

Parameter	Frequency	Sample Type
Flow	Daily	Totalized
pH	5/week	Instantaneous Grab
BOD <sub>5</sub> /TSS	2/month	Grab
% Removal	1/month	Calculation
TRC	Daily*	Instantaneous Grab
E. coli Bacteria	2/month	Grab
DO**	1/quarter	Instantaneous Grab
Nutrients & Total ammonia	1/week	3-hr Composite

\* TRC shall be measured during periods when chlorine is used as either backup bacteria control or when disinfection of plant treatment equipment is required.

\*\* Sample must be collected at entrance of the Rio Puerco and field kit (probe) can be used to measure.

#### E. 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. The discharger is a minor POTW. The same CD of 19% is retained because of the same 4Q3 of 0.965 MGD is used from the previous permit. The NMIP directs the WET testing to be 7-day chronic tests using *Ceriodaphnia dubia* and *Pimephales promelas* (same species as before) once per year.

The permittee submitted 2 WET test results out of 5 WET required, yearly over 5 year term. EPA considers unsubmitted test results are failed WET tests for analysis purpose; the permittee has not been able to prove the remaining WET test passing. RP exists in the attached Reasonable Potential Analyzer. Therefore, EPA establishes a limit, 19%, for WET in the draft permit. During the public comment period, the permittee is welcome to submit evidence to the remaining test results for reconsideration.

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 8%, 11%, 14%, 19% and 25%. The low-flow effluent concentration (critical low-flow dilution) is defined as 19% effluent. The permittee shall limit and monitor discharge(s) as specified below:

Effluent Characteristic	Discharge Limitations		Monitoring Requirements	
	30-day Avg Min.	7-day Min.	Frequency <sup>2</sup>	Type
WET Testing (7-day Static Renewal) <sup>1</sup>				
Ceriodaphnia dubia	19%	19%	Once/6 months	3-hr Composite
Pimephales promelas	19%	19%	Once/6 months	3-hr Composite

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

<sup>2</sup> The test shall take place between November 1 and April 30 if possible. 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 failures. However, upon failure of any WET test, the permittee must report the results to EPA and NMED, Surface Water Quality Bureau, in writing, within 5 business days of notification of 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 20.6.4.131 NMAC Rio Puerco (Arroyo Chijuilla to northern boundary Cuba) has been listed in 303(d) List. Warmwater aquatic life is not supporting; the water segment is impair with nutrient and ammonia; aluminum (Al) was delisted in 2014. The same 2007 TMDLs were used in the previous permit. Therefore, limits for nutrient and ammonia are retained in this permit draft. 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 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 water, which is protective of the designated uses of that water, NMAC Section 20.6.4.8.A.2.

**VIII. ENDANGERED SPECIES CONSIDERATIONS**

According to the list updated on March 13, 2015 for Sadoval County, NM obtained from <http://ecos.fws.gov>, there are endangered (E)/threatened (T) species that were listed in the previous permit: Mexican spotted owl, Southwestern willow flycatcher and Rio Grande Silvery Minnow. These species were determined with “no effect”. Since then, there have been 3 addition threatened/endangered species: Jemez Mountains salamander (E), Yellow-billed Cuckoo (T) and New Mexico meadow jumping mouse (E). There has been no recovery plan for all these additional species, except the jumping

mouse. According to the Recovery Outline for the mouse in June 2014, the species is endangered because of habitat loss; the main sources of the loss include grazing eliminating herbaceous vegetation, lack of water, severe wildland fire, souring flooding, highway reconstruction, unregulated recreation, loss of beaver ponds and mowing of riparian vegetation.

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 no information determining that the reissuance of this permit will have “effect” on the 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. There is currently no information determining that the reissuance of this permit will have “effect” on the additional listed threatened and endangered species.

#### **IX. 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.

#### **X. 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.

#### **XI. VARIANCE REQUESTS**

None

#### **XII. 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.

#### **XIII. FINAL DETERMINATION**

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

#### **XIV. ADMINISTRATIVE RECORD**

The following information was used to develop the proposed permit:

A. APPLICATION(s)

EPA Application Forms 2A and 2S dated March 1, 2015

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 June 5, 2013

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

State of New Mexico 303(d) List for Assessed Stream and River Reaches, 2014-2016

Total Maximum Daily Load (TMDL) for the Rio Puerco Watershed-Part 2, September 21, 2007

D. MISCELLANEOUS

Permittee's emails dated 4/22/15

NMED email dated 4/17/15

Recovery Outline: New Mexico Meadow Jumping Mouse (*Zapus hudsonius luteus*), June 2014