NPDES PERMIT NO. NM0027731
FACT SHEET

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

APPLICANT

Village of Chama Wastewater Treatment Plant
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ISSUING OFFICE

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DATE PREPARED

May 13, 2011

PERMIT ACTION

Proposed reissuance of the current NPDES permit issued June 11, 2007, with an effective date of July 1, 2007, and an expiration date of September 30, 2010.

RECEIVING WATER – BASIN

Rio Chamita – 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)
ug/l	Micrograms per litter (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
MQL	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 June 11, 2007, with an effective date of July 1, 2007, and an expiration date of September 30, 2010, are:

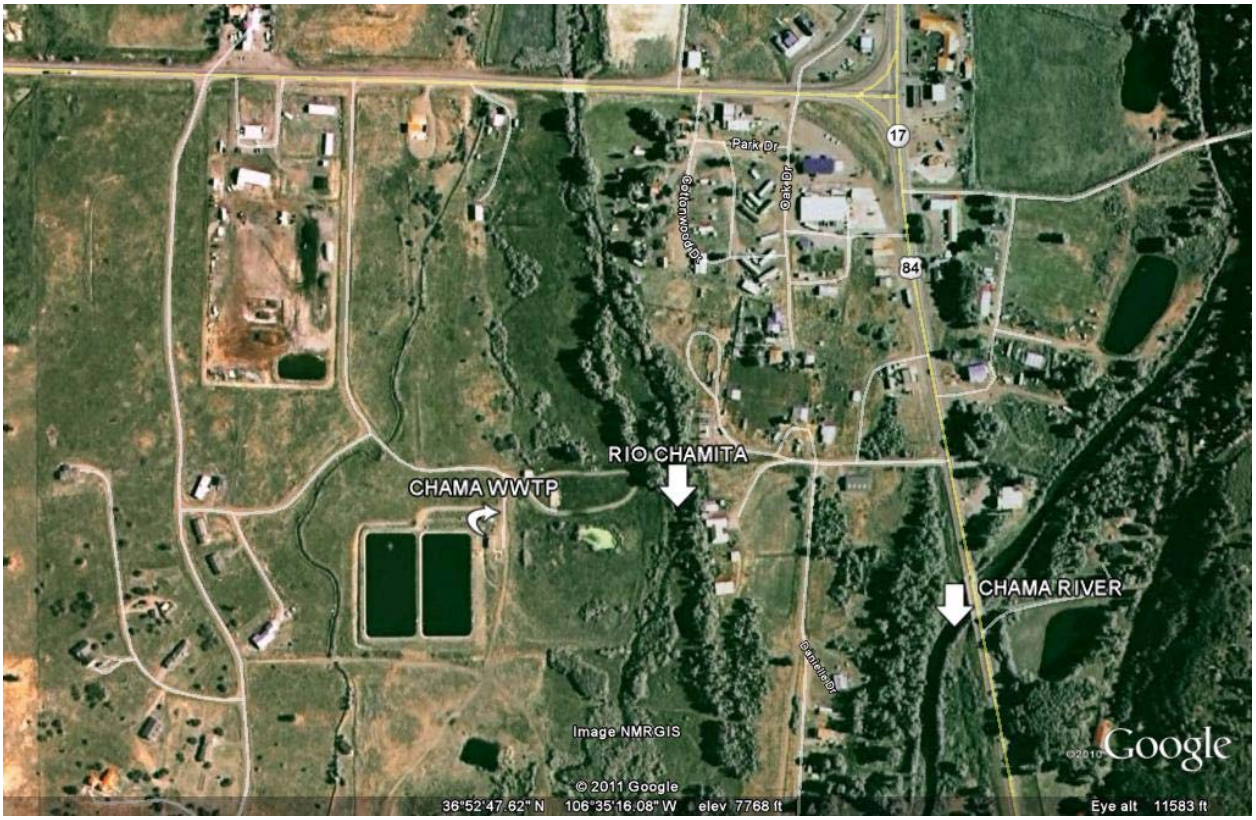
A. Daily maximum loading limits for FCB have been removed.
B. WET limits at a higher critical dilution (more restrictive) after a three year compliance schedule.

II. APPLICANT LOCATION and ACTIVITY

As described in the application, the facility is located in Rio Arriba County, New Mexico. The facility is located approximately 0.5 mile west of the US 84/64 and NM 17 intersection in the Village of Chama and south approximately 0.3 mile on the west side of the Rio Chamita.

Under the Standard Industrial Classification Code 4952, the applicant operates a POTW with a design flow of 0.30 MGD for a population of 1500 residents.

PLAT VILLAGE of CHAMA WWTP



The wastewater enters the facility through a manual bar screen. An influent lift station directs flow through a splitter box to two aerated cell lagoons; one primary and one secondary. The lagoons each have 13-days of detention time for treatment of its wastewater. The two lagoons

are lined and are equipped with coarse bubble diffusers in the bottom of each. The effluent is chlorinated with sodium hypochlorite and then dechlorinated with sodium bisulfate, sent through a V-notch weir and ultrasonic flow metering device and discharged into the Rio Chamita. Sludge settles to the bottom of each lagoon where it must be manually removed with an estimated 20-year cycle for each.

After the previous permit issuance in October 2005, the City initiated a project to determine inflow and infiltration (I&I) impacts. A sewer system evaluation survey (SSES) was initiated in 2005, and expanded through the fall 2009. I&I has been reduced as a result of the SSES where now the WWTP now receives less water flow than the drinking water produced by the water plant which earlier was not the case. The Village has started planning that will lead to a revised plant with possibly an alternative outfall into the Rio Chama instead of the current location in the Rio Chamita. The NPDES permit application submitted September 24, 2010, however does not address specifics for either of these events and the draft permit is based on existing conditions. If the Village wishes to make changes such as a different outfall location, the Village will have to submit a revised NPDES application for a modification of its permit at least 180-days prior to commencement of a discharge from a new facility and/or through a new outfall.

The discharge is to receiving waters named the Rio Chamita, thence to the Rio Chama in Waterbody Segment No. 20.6.4.119 of the Rio Grande Basin. The discharge is located on that water at Latitude 36° 52' 44" North, Longitude 106° 35' 13"West.

III. EFFLUENT CHARACTERISTICS

A quantitative description of the discharge(s) described in the EPA Permit Application Form 2A received August 1, 2010, are presented below:

POLLUTANT TABLE - 1

Parameter	Max	Avg
	(mg/l unless noted)	
Flow, million gallons/day (MGD)	0.37	0.16
Temperature, winter, °C	8.8	4.4
Temperature, summer, °C	22.1	16.7
pH, minimum, standard units (su)	N/A	6.76
pH, maximum, standard units (su)	N/A	8.71
Biochemical Oxygen Demand, 5-day (BOD_5)	74.6	24.5
Fecal Coliform (#bacteria/100 ml)	60,000	1,487
Total Suspended Solids (TSS)	80	36.7
Ammonia (NH_3)	32.8	10.7
Chlorine, Total Residual (TRC)	0.02	0.02
Dissolved Oxygen (DO)	9.22	4.8
Total Kjeldahl Nitrogen (TKN)	30.8	24.6
Nitrate plus Nitrite Nitrogen	0.9	0.6
Oil & Grease	35.9	9
Phosphorus	8.1	2.3
Total Dissolved Solids (TDS)	300	268

A summary of the last 2-years of pollutant data taken from DMRs shows many exceedances of pollutant limits.

POLLUTANT/limit	Month(s) of Exceedances/value
E. coli/avg - 100 cfu/100 ml	Jan/09 - 400, Feb/10 - 450, Jun/10 - 1323 cfu/100 ml
E. coli/max – 235 cfu/100 ml	Jun/10 - 1733 cfu/100 ml
FCB/avg – 100 cfu/100 ml	Jan/09 - 162, Apr/09 - 263, Oct/10 - 200, Nov/10 - 200 cfu/100 ml
BOD/avg – 30 mg/l	Jul/09 – 38, Oct/09 – 37, Dec/09 – 39, Feb/10 – 31, Mar/10 – 44, Dec/10 – 34 mg/l
BOD/max – 45 mg/l	Jun/09 – 75, Jul/09 – 52, Nov/09 – 52, Dec/09 – 56, Mar/10 – 48, Apr/10 – 48, Dec/10 – 48 mg/l
Aluminum/avg – 58 ug/l	Jul/10 – 73, Nov/10 – 245 ug/l
Aluminum/max – 87 ug/l	Jul/10 – 95, Nov/10 – 330 ug/l
TRC/max – 11 ug/l	Dec/09 – 5.02, Mar/10 – 6.02 mg/l
Ammonia/avg – 5.1 mg/l Seasonal July – February	ALL exceeded (24-events)
Ammonia/max – 7.65 mg/l Seasonal July – February	All exceeded (24-events)
Ammonia/avg – 10.8 mg/l Seasonal March – June	Mar/09 – 33, Jun/09 – 11, Mar/10 – 13, Apr/10 – 13 mg/l
Ammonia/max – 16.2 mg/l Seasonal March – June	Mar/09 – 33, Jun/09 – 12, Mar/10 – 19, Apr/10 – 20 mg/l

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 expired September 30, 2010. The application was received on September 24, 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 BOD_5. Water quality-based effluent limitations are established in the proposed draft permit for TRC, pH, E. coli bacteria, ammonia, and aluminum. "Report" requirements will be continued for phosphorus.

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's 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 are found at 40 CFR §133.102(a). The previous permits rationale established technology-based TSS limitations using waste stabilization lagoon standards contained in 40 CFR §133.103. The previous permit's TSS limitations of 90 mg/l are continued in this permit. 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:

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 * 0.30 MGD
30-day average BOD loading = 75 lbs

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

Final Effluent Limits – 0.30 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	75	113	30	45
TSS	225	338	90	135
pH	N/A	N/A	6.0 – 9.0 standard units	

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 the Rio Chamita, thence to the Rio Chama in Waterbody Segment No. 20.6.4.119 of the Rio Grande Basin. The designated uses of the receiving water(s) are domestic water supply, fish culture, high quality cold water aquatic life, irrigation, livestock watering, wildlife habitat and secondary 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. BACTERIA

Stream segment specific WQS for E. coli bacteria are 126 cfu/100 ml monthly geometric mean and 235 cfu/100 ml daily maximum. These are carried over from the previous permit. FCB limits are also continued from the previous permit and are based on the September 1999, TMDL. The draft permit will limit FCB at 100 cfu/100 ml 30-day avg, and 200 cfu/100 ml daily maximum. The TMDL established a WLA; 1.136×10^9 cfu/day, for only the 30-day average concentration limit. The TMDL did not establish a daily maximum WLA. The previous permit however erroneously established a single daily maximum loading limit; 2.272×10^9 cfu/day, based on the 200 cfu/100 ml concentration limit. The draft permit will remove this daily maximum loading limit, as it exceeds the WLA established in the TMDL. The removal of FCB loading does not constitute antibacksliding as required in 40 CFR §122.44(l)(2)(i)(B)(2); technical mistakes.

b. pH

There are no stream segment specific criteria listed for pH. Permit limits for selected parameters not otherwise listed in stream segment specific listings are contained in 20.6.4.900 NMAC; "Criteria Applicable to Existing, Designated or Attainable Uses Unless Otherwise Specified in 20.6.4.98 through 20.6.4.899 NMAC." The criteria for pH for high quality coldwater streams are 6.6 to 8.8 s.u. and are more restrictive than the technology-based limits presented earlier but are identical to the previous permit. The 6.6 to 8.8 s.u. limit will be continued in the draft permit.

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 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. The facility is designated as a minor, and does not need to fill out the expanded pollutant testing section Part D of Form 2A.

The previous permit however established limits for aluminum with a compliance schedule. The compliance period ended June 2009 and as the DMR data above showed, the facility has exceeded aluminum limits after that date. The aluminum limits developed in the previous permit will be continued in the draft permit.

ii. TRC

The facility uses chlorine to control bacteria. The previous permit had an 11 ug/l TRC limit that will be continued in the draft permit.

d. TMDL Parameters

The permit issued December 19, 2001, established limits for ammonia with a compliance schedule. The previous permit issued June 11, 2007, established WLA for FCB and aluminum based on the TMDL approved by EPA March 4, 2004. Those limits for both concentration and WLAs will be continued in the draft permit.

e. Phosphorus

The previous permit established concentration report requirements for total phosphorus. The permit required monitoring for both influent levels into the POTW and effluent concentrations from the plant. The draft permit will continue the effluent concentration requirements but will eliminate the influent reporting. Since this requirement is not a limit there are no antibacksliding requirements to be considered in this change.

f. Nutrient Management Identification Plan Summary

The previous permit established a Nutrient Management Identification Plan (Plan) to be used for identifying existing commercial users and potential phosphorus contributors to the Villages POTW. The Village established the Plan and has been conducting sampling required by the Plan. The draft permit will require the Village to summarize the Plan's sampling results and to present conclusions as the contributors of phosphorus to the Villages POTW. The Plan summary shall be due six months after the permit effective date.

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 two times per month. Flow is proposed to be

monitored continuously by totalizing meter. These frequencies are the same as the current permit. Sample type for BOD and TSS are grab which is consistent with the previous permit.

Water quality-based pollutant monitoring frequency for E. coli shall be two times per month by grab sample which is the same as the previous permit. TRC and pH shall be monitored five (5) days per week, using instantaneous grab samples. Regulations at 40 CFR §136 define instantaneous grab as being analyzed within 15-minutes of collection. The frequency for pH is greater than the previous permit and is consistent with similar sized facilities. Since the facility must measure TRC at an identical frequency and both are measured in the field, there is no additional burden to the facility to comply with this change. Ammonia, aluminum and phosphorus shall be monitored twice per month using grab samples, identical to the previous permit. FCB shall be monitored once per month using a grab sample, the same as the previous permit.

E. WHOLE EFFLUENT TOXICITY LIMITATIONS

The NMIP, Section V., provides for the inclusion of WET testing for discharges into receiving waters. Table 11 of the NMIP lists the types of test to be used to determine if the discharge may cause or contribute to exceedances of applicable NMWQS narrative water quality criteria with existing or designated fishery uses. The Table uses the discharge CD as an identifying function of the type of WET testing required for this assessment.

The design flow, Qe, is 0.3 MGD and the 4Q3 or Qa is 1.11 MGD (taken from the draft TMDL, December 2010). The CD for the facility is calculated as:

$$C_d = (Q_e) (FQ_a + Q_e)$$

Where:

Q_e = the treatment facility flow determined above, 0.3 MGD
Q_a = the critical low-flow determined above, 1.11 MGD
F = the fraction of stream allowed for mixing, and for site specific streams, when conditions such as climatic conditions, channel characteristics and morphology are not known, a value of 1.0 is used.

CD = 0.212, rounded to 21%

It needs to be noted that the previous permit used a higher 4Q3; 2.65 MGD, that has since been determined to be erroneously high by NMED. The CD based on the 2.65 MGD 4Q3 calculated at 10% in the previous permit.

Based on the nature of the discharge; POTW, the design flow; more than 0.1 MGD but less than 1.0 MGD, the perennial nature of the receiving water and CD > 10%, the NMIP directs the WET test to be a 7 day chronic test using Ceriodaphnia dubia and Pimephales promelas at a once per 6 month frequency. Based on the WET Recommendation shown in **Appendix A** of the Fact Sheet and the previous permit terms, WET limits for both species will be carried over into the proposed permit.

The new CD based on the newer 4Q3 warrants a significant change in critical dilution similar to a change to a more stringent WQS. Therefore, the permittee is authorized a three-year compliance schedule before coming into compliance with the more stringent 21% CD for WET. A three-year compliance schedule is appropriate because it gives the POTW time to obtain funding, perform additional testing to determine the source of toxicity, upgrade the facility's equipment where needed while still attaining compliance with the WET limit as soon as possible. During the compliance schedule however, the permittee will have WET limits continued at the original lower 10% CD. After the three-year compliance schedule, the permittee will be expected to comply with the 21% CD.

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 4%, 6%, 8%, 10%, and 13% in the interim and 9%, 12%, 16%, 21%, 28% as final dilution series. The low-flow effluent concentration (critical low-flow dilution) is defined as 10% effluent in the interim and 21% effluent as final.

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 - the discharge to the Rio Chamita. Discharges shall be limited and monitored by the permittee as specified below:

EFFLUENT CHARACTERISTIC	DISCHARGE LIMITATIONS 30-DAY AVG MINIMUM		7-DAY MINIMUM	
Whole Effluent Toxicity (**PCS 22414**) (7-Day NOEC)	**INTERIM (*1)**	10%	**INTERIM (*1)**	10%
	FINAL (*2)	21%	**FINAL (*2)**	21%
Ceriodaphnia dubia	REPORT		REPORT	
Pimephales promelas	REPORT		REPORT	

EFFLUENT CHARACTERISTIC	MONITORING REQUIREMENTS FREQUENCY	TYPE
Whole Effluent Toxicity (7-Day NOEC)		
Ceriodaphnia dubia	1/6 Months	24 Hr. Composite
Pimephales promelas	1/6 Months	24-Hr. Composite

FOOTNOTES

*1 Monitoring and reporting requirements begin on the effective date of this permit. During the period beginning the effective date of the permit and lasting until three (3) years after the permit effective date of the permit, the permittee is authorized to discharge from Outfall 001. See PART I, Compliance Schedules, and PART II, Whole Effluent Toxicity Testing Requirements for additional WET monitoring and reporting conditions.

*2 Monitoring and reporting requirements begin three (3) years after the permit effective date of the permit and lasting through the expiration date of the permit, the permittee is authorized to discharge from Outfall 001. See PART I, Compliance Schedules, and 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 previous permit addressed pollutants assigned WLAs based an earlier TMDL for the Rio Chamita for aluminum, ammonia, phosphorus, temperature and FCB. There was not a WLA assigned to the facility for temperature as the heat is not a pollutant consistent with the activities of a POTW. The pollutants aluminum, ammonia, phosphorus and FCB have been continued in the draft permit based on the TMDL. A TMDL is scheduled to be completed late 2011. The draft TMDL may establish WLAs for E. coli and phosphorus but until the TMDL is approved those pollutants will not have WLAs established in the draft permit. The draft permit does however continue concentration limits for E. coli consistent with WQS and nutrients are listed as report requirements, consistent with the previous permit. The standard reopener language in the permit allows additional permit conditions if this or a future TMDL is completed or an existing one is modified.

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.

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 proposed permit maintains the mass loading requirements and limits of the previous permit.

X. ENDANGERED SPECIES CONSIDERATIONS

According to the most recent county listing available at USFWS, Southwest Region 2 website, http://ifw2es.fws.gov/EndangeredSpecies/lists/, five species in Rio Arriba County are listed as endangered (E) or threatened (T). They are the Black-footed ferret (E) (*Mustela nigripes*), the Interior least tern (E) (*Sterna antillarum*), the Southwestern willow flycatcher (E) (*Empidonax traillii extimus*), the Rio Grande silvery minnow (E) (*Hybognathus amarus*) and the Mexican spotted owl (T) (*Strix occidentalis lucida*). The American bald eagle (*Haliaeetus leucocephalus*) was previously listed as endangered; however, the USFWS removed the American bald eagle in the lower 48 states from the Federal List of Endangered and Threatened Wildlife Federal Register, July 9, 2007, (Volume 72, Number 130).

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 June 11, 2007, 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 September 24, 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, May 3, 2011.

Statewide Water Quality Management Plan, December 17, 2002.

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