

# **NPDES PERMIT NO. NM0029602**

## **FACT SHEET**

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

### **APPLICANT**

City of Rio Rancho  
Utility Operation Division  
3200 Civic Center Circle NE  
Rio Rancho, NM 87144

### **ISSUING OFFICE**

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Region 6  
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### **DATE PREPARED**

February 9, 2016

### **PERMIT ACTION**

Renewal of a permit previously issued on September 24, 2010, with an effective date of November 1, 2010, and an expiration date of October 31, 2015.

### **RECEIVING WATER – BASIN**

Rio Grande River – Middle Rio Grande Basin (Segment 20.6.4.106)

**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 September 24, 2010, with an effective date of November 1, 2010, and an expiration date of October 31, 2015, are as follow:

- Removal percentage for BOD<sub>5</sub> and TSS has been established.
- Monitoring frequency for pH has been reduced to 5/week from daily.
- Monitoring of adjusted gross alpha have been added.
- Samples analysis for TDS, chlorides and sulfates have been added.

## **II. APPLICANT LOCATION and ACTIVITY**

As described in the application, the facility (Outfall: Latitude 35° 17' 02" North and Longitude 106° 36' 59.53" West) is located at 1605 Riverside Drive, Rio Rancho, Sandoval County, New Mexico. The facility is located on State land; the discharge from Outfall 001 enters the Rio Grande from the west to New Mexico surface waters. The Pueblo of Sandia controls the water rights of the east half of the Rio Grande, with the west half Rio Grande controlled by New Mexico.

Under the SIC code 4952, the applicant operates City of Rio Rancho WWTP #3, which has a design flow of 0.85 MGD along with Rio Rancho WWTP #2 providing sanitary services for approximately 91,956-population in total. The facility has been offline since 2003, but with the population increasing it's expected this facility will be needed for future growth. The treatment system includes a UV system and potential discharge is to Rio Grande River. A map of the facility is attached.

## **III. EFFLUENT CHARACTERISTICS**

Because there has not been a discharge since 2003, effluent data are not available in Form 2A.

## **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 April 29, 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 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:

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

$$30\text{-day average BOD/TSS loading} = 30 \text{ mg/l} * 8.345 \text{ (lbs)(l)/(mg)(MG)} * 0.85 \text{ MGD} = 200 \text{ lbs/day}$$

$$7\text{-day average BOD/TSS loading} = 45 \text{ mg/l} * 8.345 \text{ (lbs)(l)/(mg)(MG)} * 0.85 \text{ MGD} = 300 \text{ lbs/day}$$

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	213	319	30	45
BOD, % removal <sup>1</sup>	≥ 85	---	---	---
TSS	213	319	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/Tribe WQS. Effluent limitations and/or conditions established in the draft permit are in compliance with applicable State/Tribal WQS and applicable State/Tribe water quality management plans to assure that surface WQS of the receiving waters are protected and maintained, or attained.

#### 2. Implementation

The NPDES permits contain technology-based effluent limitations reflecting the best controls available. Where these technology-based permit limits do not protect water quality or the designated uses, additional water quality-based effluent limitations and/or conditions are included in the NPDES permits. State/Tribe narrative and numerical water quality standards are used in conjunction with EPA 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). The receiving water is Rio Grande River (segment 20.6.4.106 NMAC of the Rio Grande River Basin). The stream designated uses are irrigation, marginal warmwater aquatic life, livestock watering, wildlife habitat and primary contact; and public water supply.

4. Sandia Water Quality Standards

Adjacent to the State water, the downstream Tribe water must be protective as well. The Pueblo of Sandia has been approved to have treatment in the same manner as a state as contained in 40 CFR 131.8. The general and specific stream standards for the Pueblo of Sandia Water Quality Standards (PSWQS) are provided in “Pueblo of Sandia Water Quality Standards”, revised January 31, 2008, approved and adopted by Tribal Council Resolution 2009-118 on November 13, 2009, and approved by EPA March 9, 2010. This latest WQS was used in the previous permitting renewal. The designated uses of the Rio Grande, according to PSWQS, Section V.A.1, are warmwater and coolwater aquatic/fishery, primary contact ceremonial, primary and secondary contact recreational, agricultural and industrial water supply, domestic water supply and wildlife habitat.

5. 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 or Tribal WQS that are more stringent than effluent limitation guidelines and the most stringent limitations are chosen as follows:

a. pH

State Water Designated Use(s)	State WQS	Tribe Water Designated Use(s)	Pueblo of Sandia (PS) WQS	Limitation Established
Warmwater aquatic life and primary contact	6.6 – 9.0 [20.6.4.900.D and H(5)]	Coolwater Aquatic Life/Fishery	6.6 – 9.0 [Section IV.A]	6.6 – 9.0

b. Bacteria

State Water Designated Use(s)	State WQS	Tribe Water Designated Use(s)	Pueblo of Sandia WQS	Limitation Established
Primary contact	126 cfu/100 ml monthly; 410 cfu/100 ml daily maximum, [20.6.4.900.D]	Primary Contact Ceremonial Use	47 cfu/100 ml monthly; 88 cfu/100 ml daily maximum, [Section IV.D]	47 cfu/100 ml monthly; 88 cfu/100 ml daily maximum

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.

The facility is designated as a minor, and does not need to fill out the expanded pollutant testing section Part D of Form 2A. Total ammonia, PCB and arsenic are monitored in the existing permit. Because there has been no discharge, no effluent data are available to re-evaluate limit for total ammonia and perform RP analyses for the other parameters. EPA retains the same conditions for these parameters in the draft permit.

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 and for Coolwater Aquatic Life/Fishery) is established in the draft permit in case chlorine based-product is used in the treatment process.

e. DO

For Coolwater Aquatic Life/Fishery, criteria for DO is 6.0 mg/L or more pursuant to PSWQS, Section IV.A. Since there is no effluent data, evaluation of DO against the criteria is not carried out. DO monitoring in the existing permit is retained in the draft permit.

f. Salinity/Mineral Quality (Total Dissolved Solids, Chlorides, and Sulfates)

There are numerical criteria for TDS, chlorides and sulfates applicable to the designated uses pursuant to PSWQS Section III.K and 20.6.4.106.B(2) NMAC. During the permit term, the permittee must submit 3 analysis for each parameter when discharge occurs; the results can be attached to the application for the next renewal cycle. EPA will evaluate them against the criteria.

#### 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 0.5 and 1.0 MGD and based on compliance history.

Parameter	Frequency	Sample Type
Flow	Daily	Totalized
pH	5/week	Instantaneous Grab
BOD <sub>5</sub> /TSS	3/month	3-hr Composite
% Removal	1/month	Calculation
TRC	5/week*	Instantaneous Grab
E. coli Bacteria	3/month	Grab
DO	1/week	Instantaneous Grab
Ammonia, total	2/week	3-hr Composite
PCB	Once	12-hr Composite
Arsenic, total	2/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.

#### E. WHOLE EFFLUENT TOXICITY

The 4Q3, subject to change, is a big factor to determine CD in this receiving water. In the previous permit, CD was calculated at 1.8% using a 4Q3 of 46.89 MGD (72.68 cfs); recent data NMED provided to EPA show a much greater 4Q3 at gage 08319000, upstream from the facility. The minimum default CD is 1%, which is not much different from 1.8%. Since there is no WET data for RP analysis and no certainty if the facility will be re-operated in this permit term, WET requirements in the previous permit are retained in this permit draft.

The proposed permit requires five (5) dilutions (same as previously) 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%, 10%, 14%, 18% and 24%. The permittee may perform the WET testing at a higher CD with the same dilution series and report the results. The low-flow effluent concentration (critical low-flow dilution) is defined as 18% effluent. The permittee shall limit and monitor discharge(s) as specified below:

Effluent Characteristic	Discharge Limitations		Monitoring Requirements	
	30-day Avg Min.	48-hr Min.	Frequency <sup>2</sup>	Type
WET Testing (48-hr Static Renewal) <sup>1</sup>				
Daphnia pulex	Report	Report	Once/6 months	24-hr Composite
Pimephales promelas	Report	Report	Once/6 months	24-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 20.6.4.106 NMAC Rio Grande (non-pueblo Alameda Bridge to HWY 550 Bridge) has been listed in 303(d) List. The receiving water is impaired for wildlife habitat, livestock watering, primary contact and marginal warmwater aquatic life. Causes are PCB in water column and fish tissue, adjusted gross alpha, E. coli, ambient bioassays-acute and DO. Latest TMDL for E. coli was issued in 2010, which the limits was established based on this TMDL. EPA retains this limit requirement for E. coli in this permit draft. TMDLs for other causes are scheduled for 2016 approximately. Adjusted gross alpha is monitored once/quarter. PCB and DO monitoring are retained as mentioned above. 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 May 8, 2015 for Sandoval 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 additional 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. According to the Federal Register on 11/20/2013 (78 FR 69569 69591), habitat characteristics for the salamander include moderate to high tree canopy cover with high relative humidity, elevations from 6,988 to 11,254 ft, ground surface in forest areas with large fallen trees and underground habitat in forest or meadow areas containing interstitial spaces. Major factors affecting the species are (a) wildland fire, (b) disease (fungus, infection) or predation (by snake, bear, owl), (c) inadequacy of existing regulations and (d) others including chemical use for weed control and climate change per the Federal Register on 09/10/2013 (78 FR 55599 55627). Because of these facts, EPA believes the salamander’s habitats unlikely exist in flow path of the discharge. According to the Federal Register on 8/15/2014 (79 FR 48547 48652) the primary constituent elements specific to the western yellow-billed cuckoo are: riparian woodlands with mixed willow-cottonwood vegetation, mesquite-thorn-forest vegetation, presence of a prey base consisting of large insect fauna, and river systems that are dynamic and provide hydrologic processes that encourage sediment movement and deposits that allow seedling germination and promote plant growth, maintenance, health, and vigor. Major factors affecting the cuckoo are (a) manmade features that alter watercourse hydrology, livestock overgrazing and encroachment from agriculture, climate change, (b) disease (West Nile virus) or predation (by hawk), (c) inadequacy of existing regulations and (d) others including pesticide chemical per the Federal Register on 10/03/2014 (79 FR 59991 60038).

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 Tribe/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.
4. The previous permit initiated Formal Consultation with the FWS for the discharge from the facility. EPA provided a Biological Evaluation (BE) to FWS March 27, 2001. The FWS responded to EPA’s BE, August 20, 2001, Consultation # 2-22-01-I-592, concurring with EPA’s

“no effect” determination for the Southwestern flycatcher and its “may affect, but not likely to adversely affect” the Rio Grande silvery minnow.

#### **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 dated April 29, 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

Total Maximum Daily Load (TMDL) Report for the Middle Rio Grande Watershed, approved by EPA, June 30, 2010.

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

D. MISCELLANEOUS

“Pueblo of Sandia Water Quality Standards”, revised January 31, 2008, adopted by Tribal Council Resolution 2009-118 on November 13, 2009, and approved by EPA March 9, 2010.

NMED email dated May 4, 2015.

Recovery Outline: New Mexico Meadow Jumping Mouse (*Zapus hudsonius luteus*), June 2014  
Federal Register: 78 FR 69569 69591 on 11/20/2013; 78 FR 55599 55627 on 09/10/2013; 79 FR 59991 60038 on 10/03/2014; 79 FR 48547 48652 on 8/15/2014