

NPDES PERMIT NO. NM0030368

FACT SHEET

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

APPLICANT

Ranchland Utility Company
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ISSUING OFFICE

U.S. Environmental Protection Agency
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PREPARED BY

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DATE PREPARED

February 27, 2013

PERMIT ACTION

Renewal of a permit previously issued February 27, 2007, with an effective date of April 1, 2007, and an expiration date of March 31, 2012.

RECEIVING WATER – BASIN

Canada Del Rancho – 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
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
ELG	Effluent limitation guidelines
EPA	United States Environmental Protection Agency
ESA	Endangered Species Act
FCB	Fecal coliform bacteria
FWS	United States Fish and Wildlife Service
mg/l	Milligrams per liter
ug/l	Micrograms per liter
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	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 previous permit issued May 22, 2007, with an effective date of July 1, 2007, and an expiration date of June 30, 2012, are:

1. The permit establishes minimum BOD and TSS percent removal efficiencies.
2. WET limits for *Pimephales promelas* have been established.

II. APPLICANT LOCATION and ACTIVITY

As described in the application, the facility is located on Avenida Del Sur road in Section 30, Township 16 North, Range 9 East, Santa Fe County, New Mexico. Under the SIC Code 4952, the applicant operates a privately owned treatment works with a design flow of 0.375 MGD providing sanitary services for approximately 5000 residents.

PLAT OF RANCLAND UTILITY



Three lift stations bring the influent into the headworks which consist of an auger for grit removal. The grit removed is taken to the Rio Rancho landfill for final disposal. From the

headworks, flow continues to the Biolac basin which is a synthetically lined basin with wave-oxidation fine bubble diffusers. The Biolac system uses moving aeration chains which improve the mixing efficiency of the basin. From the Biolac basin, flow enters one of two circular clarifiers. Influent then travels to the discfilter for polishing. There are two discfilters, one used, and the other on stand-by. Flow then goes through the ultraviolet (UV) system for disinfection, and is discharged through a Parshall flume to a holding pond where it is later used for irrigation on land application sites located within the Rancho Viejo development area.

The aerobic sludge digester has a capacity of 85,000 gallons. The digester receives waste activated sludge from the clarifier and is digested and gravity thickened. Supernatant from the sludge digester is returned to the influent wet well. A private contractor hauls digested sludge to a septage/sludge receiving station operated by the City of Santa Fe Wastewater Treatment Facility.

The discharge is located at Latitude 35° 35' 30" North, Longitude 106° 01' 30" West. The discharge from the facility is to Canada Del Rancho thence to Arroyo Hondo thence to Cienega Creek thence to the Santa Fe River in Stream Segment 20.6.4.098 of the Rio Grande Basin. The location of Outfall 001 is: Latitude 34° 49' 57.6" North, Longitude 106° 42' 45.32" West.

III. EFFLUENT CHARACTERISTICS

The applicant did not have a discharge to sample when it filled out the application. The following is data taken from DMR submittals. Lack of application data does not alter the permit conditions since the permit is a minor, does not have to report toxics and there are no other pollutants to consider beyond BOD, TSS, bacteria and pH unless the water is impaired for other pollutants. The attached DMR Table shows the summary of DMR data taken over the past 24 months. Missing dates are periods when flow was not discharged but disposed of either by land application or placed into wet weather storage.

DATE	Flow		BOD		pH		TSS		E. coli	
	avg	max	avg	max	avg	max	avg	max	min	max
	MGD	MGD	mg/l	mg/l	su	su	mg/l	mg/l	#/100ml	#/100ml
Nov 2010	0.089	0.089	5	5	7.4	7.8	4	8	1	1
Dec 2010	0.105	0.107	5	5	7.5	7.7	12.3	25	2	4
Jan 2011	0.123	0.126	5	5	7.5	7.64	2	2	101	200
Feb 2011	0.098	0.12	5	5	7.44	7.61	2	2	1	1
Mar 2011	0.111	0.142	5	5	7.5	7.62	3	6	38	109
Nov 2011	0.12	0.123	5	5	7	7.6	2	2	56.3	160
Dec 2011	0.113	0.127	5.6	7.3	6.7	6.73	5	5	10	10
Jan 2012	0.117	0.124	5	5	7.3	7.5	2.8	5	1	1
Feb 2012	0.118	0.121	5	5	7.3	7.5	2	2	1.3	2
Mar 2012	0.114	0.125	6.3	10	7.3	7.5	2.5	4	1	1

A review of the DMR data shows that none of the limited pollutants exceeded limits. However, there was a WET failure reported on the March 2011 test for the vertebrate *Pimephales promelas*.

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.

The facility submitted a complete permit application July 5, 2012. 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 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, BOD, and percent removal efficiency for each. Water quality-based effluent limitations are established in the proposed draft permit for E. coli bacteria, TRC and pH.

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, 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.

2. Effluent Limitation Guidelines

The facility is equivalent to 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, percent removal for each and pH. BOD limits of 30 mg/l for the 30-day average, 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, 45 mg/l for the 7-day 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 POTW’s, the plant’s design flow is used to establish the mass load. Mass limits are determined by the following mathematical relationship:

$\text{Loading in lbs/day} = \text{concentration in mg/l} * 8.345 \text{ (lbs/l)/(mg/MG)} * \text{design flow in MGD}$
 $\text{TSS/BOD}_5 \text{ loading (lbs/day)} = 30 \text{ mg/l} * 8.345 \text{ (lbs/l)/(mg/MG)} * 0.375 \text{ MGD} = 94 \text{ lbs/day}$
 $\text{TSS/BOD}_5 \text{ loading (lbs/day)} = 45 \text{ mg/l} * 8.345 \text{ (lbs/l)/(mg/MG)} * 0.375 \text{ MGD} = 141 \text{ lbs/day}$

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

Final Effluent Limits – 0.375 MGD design flow

EFFLUENT CHARACTERISTICS	DISCHARGE LIMITATIONS			
	lbs/day, unless noted		mg/l, unless noted	
	30-Day Avg	7-Day Max	30-Day Avg	7-Day Max
Flow	N/A	N/A	Report	Report
BOD	94	141	30	45
BOD, % Removal, Minimum	≥ 85% (*1)	---	---	---
TSS	94	141	30	45
TSS, % Removal, Minimum	≥ 85% (*1)	---	---	---
pH	N/A	N/A	6.0 to 9.0 su	

Footnote:

*1 Percent removal is calculated using the following equation: $\frac{[(\text{average monthly influent concentration} - \text{average monthly effluent concentration}) \div (\text{average monthly influent concentration})] \times 100}{100}$.

3. Sludge Requirements

Waste activated sludge is stored in a lined basin and hauled by truck to the City of Santa Fe's WWTP. Requirements for facilities treating domestic sewage include, but are not limited to, treatment technologies, sludge requirements, operation, reporting requirements and waste water pollution prevention requirements. 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." The specific requirements in the permit apply as a result of the design flow of the facility, the type of waste discharge to the collection system, and the sewage sludge disposal or reuse practice utilized by the treatment works. Sludge testing information, that is required of handling or disposing of the sludge, will be retained on site for five years, as required in the record keeping requirements section of Part IV, in accordance with NPDES Permit No. NM0030368.

4. Pretreatment

The facility has no significant industrial users, therefore, EPA has determined that the permittee will not be required to develop a full pretreatment program.

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 November 20, 2012).

General criteria are applicable as specified in 20.6.4.13 NMAC. The discharge is to Canada Del Rancho thence to Arroyo Hondo thence to Cienega Creek thence to the Santa Fe River. The nearest designated stream segment; 20.6.4.113 NMAC, is the Santa Fe River and perennial reaches of its tributaries from Cochiti pueblo boundary upstream to the Santa Fe WWTP. The Canada Del Rancho and the Arroyo Hondo are not perennial tributaries. Until such time as NMED establishes specific standards for this waterbody, according to 20.6.4.15 NMAC, the discharge into the waterbody must protect designated uses consistent with 20.6.4.098 NMAC. The designated uses of the receiving water are marginal warmwater aquatic life, 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

Criteria for pH is listed in 20.6.4.900.D; primary contact and H.(6); for marginal warmwater aquatic life are both within the range of 6.6-9.0 su's. These limits are more stringent than the technology-based limits above and the draft permit will propose the water quality based limits 6.6-9.0 su's. These are identical to the current permit.

b. Bacteria

Criteria for bacteria; E. coli, is listed in 20.6.4.900.D , primary contact and establish E. coli bacteria at 126 cfu/100 ml daily monthly geometric mean and 410 cfu/100 ml daily maximum. These limits are identical to the previous permit.

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, 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. There are no toxics that need to be placed in the draft permit except for those presented below.

d. TRC

The facility uses UV to treat bacteria. Consistent with all POTWs in the State of NM however, TRC limitations are placed in permits to provide discharge limitations in the event chlorine is used as backup bacteria disinfection treatment and/or cleaning and disinfection of process equipment and/or used to control filamentaceous algae. The WQS for TRC is 11 ug/l for both chronic aquatic life and wildlife habitat, and 19 ug/l for acute aquatic life. The facility discharges to an intermittent water body and the CD is 100% indicating that the discharge must meet criteria at end-of-pipe. Based on the dilution factor, the acute end of pipe criteria of 11 ug/l is more restrictive than the chronic criteria of 19 ug/l. The draft permit will continue the 11 ug/l TRC limit currently in the previous permit with the same conditions when it needs to be reported. When the above conditions are not being used the permittee may report N/A with a comment stating chlorine was not used in the manner stated in the permit footnote.

5. 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 March 12, 2012, NMIP and the previous permit.

Flow is proposed to be measured and reported continuously consistent with the current permit. The pollutants BOD and TSS shall be sampled and reported once per week using 6-hour composite samples. The pollutant pH shall be sampled and reported once per week using grab samples. E. coli bacteria are to be sampled and reported once per week using grab samples. TRC, when used according to the conditions stated previously shall be sampled and reported daily by instantaneous grab sample. Instantaneous grab sample is defined in 40 CFR Part 136 as being sampled and analyzed within 15-minutes.

D. WHOLE EFFLUENT TOXICITY LIMITATIONS

Procedures for implementing WET terms and conditions in NPDES permits are contained in the NMIP. Table 11 of Section V of the NMIP outlines the type of WET testing for different types of discharges. Based on the previous permit the CD was calculated to be 100%. The previous permit established acute WET monitoring for *Daphnia pulex*. However the facility reported test results for *Daphnia pulex* and the vertebrate *Pimephales promelas*. Regulations in 40 CFR §122.41(l)(4)(ii), monitoring reports, states that if the permittee monitors any pollutant more

frequently than required by the permit, the results of this monitoring shall be submitted in the DMR. Appendix A of the fact sheet shows the RP for WET based on the results of the testing. The vertebrate Pimephales promelas failed in the March 2011, test. Based on the failure the draft permit will establish a WET limit for Pimephales promelas with a two (2) year compliance schedule. The invertebrate will remain as a monitor and report. The Pimephales promelas (vertebrate) monitoring will be once per year and the Daphnia pulex (invertebrate) will remain at twice per permit term with the first test to be conducted in the first year after the permit effective date (PED), the second test to be conducted in the third year after the PED, and remaining tests until a reissued permit will be once every two (2) years. The third test therefore will be due during the fifth year of the permit. All tests shall be conducted during the period of November 1 thru April 30. The proposed permit requires four (4) dilutions in addition to the control (100% effluent) to be used in the toxicity tests based on a 0.75 dilution series. These additional effluent concentrations are 32%, 42%, 56%, 75% and 100% CD. Results of all dilutions as well as the associated chemical monitoring of pH, temperature, hardness, dissolved oxygen, conductivity, and alkalinity shall be documented in a full report according to the appropriate test method publication. The full reports required by each test section need not be submitted unless requested. However, the full report is to be retained following the provisions of 40 CFR Part 122.41 (j) (2). The permit requires the submission of the toxicity testing information to be included on the DMR.

Discharges shall be limited and monitored by the permittee as specified below:

Daphnia pulex (invertebrate WET monitoring)

During the period beginning the PED and lasting through the expiration date of the permit, the permittee is authorized to discharge from Outfall 001 - the discharge to Canada Del Rancho from the treatment system. The discharge of treated sanitary wastewater 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>48-HOUR MINIMUM</u>
Whole Effluent Toxicity Testing (48 Hr. Static Renewal) *1		
Daphnia pulex	REPORT	REPORT

<u>EFFLUENT CHARACTERISTIC</u>	<u>MONITORING REQUIREMENTS</u>	
	<u>FREQUENCY</u>	<u>TYPE</u>
Whole Effluent Toxicity Testing (48 Hr. Static Renewal) *1		
Daphnia pulex	1/Two Year's (*2)	24 Hr. Composite

FOOTNOTES:

- *1 Monitoring and reporting requirements begin on the PED. See Part II, Whole Effluent Toxicity Testing Requirements for additional WET monitoring and reporting conditions.
- *2 First test shall be conducted during the first year after the PED with sample taken between November 1 thru April 30. Second test shall be taken during the third year after the PED with sample taken between November 1

thru April 30. Third and subsequent tests shall occur once every two years until a renewed permit is issued. Samples will be taken between November 1 thru April 30.

Pimephales promelas (vertebrate WET monitoring)

During the period beginning the PED and lasting through one day prior to two (2) years after the PED, the permittee is authorized to discharge from Outfall 001 - the discharge to Canada Del Rancho from the treatment system. The discharge of treated sanitary wastewater 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>48-HOUR MINIMUM</u>
Whole Effluent Toxicity Testing (48 Hr. Static Renewal) *1		
Daphnia pulex	REPORT	REPORT

<u>EFFLUENT CHARACTERISTIC</u>	<u>MONITORING REQUIREMENTS</u>	
	<u>FREQUENCY</u>	<u>TYPE</u>
Whole Effluent Toxicity Testing (48 Hr. Static Renewal) *1		
Daphnia pulex	1/Two Year's (*2)	24 Hr. Composite

FOOTNOTES:

- *1 Monitoring and reporting requirements begin on the PED and last until one (1) day prior to the second year after the PED. See Part II, Whole Effluent Toxicity Testing Requirements for additional WET monitoring and reporting conditions.
- *2 Samples will be taken between November 1 thru April 30.

Pimephales promelas (vertebrate WET LIMITS)

During the period beginning the second (2nd) year after the PED and lasting through the expiration date of the permit, the permittee is authorized to discharge from Outfall 001 - the discharge to Canada Del Rancho from the treatment system. The discharge of treated sanitary wastewater shall be limited and monitored by the permittee as specified below:

<u>EFFLUENT CHARACTERISTIC</u>	<u>DISCHARGE LIMITATIONS</u>	
	<u>30-DAY AVG MINIMUM</u>	<u>48-Hr. MINIMUM</u>
Whole Effluent Lethality (PCS 22414) (48 Hr. NOEC) *1	100% *1	100% *1
Pimephales promelas	REPORT	REPORT
<u>EFFLUENT CHARACTERISTIC</u>	<u>MONITORING REQUIREMENTS</u>	
	<u>FREQUENCY</u>	<u>TYPE</u>
Whole Effluent Lethality (48 Hr. NOEC) *1		
Pimephales promelas	1/Year (*2)	24-Hr. Composite

FOOTNOTES:

- *1 Compliance with the Whole Effluent Toxicity limitations is required on two (2) years after the PED. See PART I, Compliance Schedules, and Part II, Whole Effluent Toxicity Testing Requirements for additional WET monitoring and reporting conditions.
- *2 Samples shall be taken between November 1 thru April 30.

VI. TMDL REQUIREMENTS

The discharge is to Canada Del Rancho thence to Arroyo Hondo thence to Cienega Creek, none of which are on the 2012-2014 State of New Mexico Clean Water Act §303(d) list of impaired waters. Cienega Creek is on the 305(b) listing fully supporting designated uses. There are no additional pollutants that need to be addressed in the draft permit based on 303(d) concerns. 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 were 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 waters, 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 most recent county listing available at USFWS, Southwest Region 2 website, http://www.fws.gov/southwest/es/ES_ListSpecies.cfm, four species in Santa Fe County are listed as endangered (E) or threatened (T). The southwestern willow flycatcher (E) (*Empidonax traillii extimus*), the Rio Grande silvery minnow (E) (*Hybognathus amarus*), the Black-footed ferret (E, extirpated in the county) (*Mustela nigripes*), and the Mexican spotted owl (T) (*Strix occidentalis lucida*). The American bald eagle (*Haliaeetus leucocephalus*) was previously listed in Santa Fe County; 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. 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.

2. EPA has received no additional information since the previous permit issuance which would lead to revision of its determinations.
3. The draft permit is consistent with the States WQS and does not increase pollutant loadings.
4. EPA determines that Items 1, thru 3 result in no change to the environmental baseline established by the previous permit, therefore, EPA concludes that reissuance of this permit will have “no effect” on listed species and/or designated critical habitat.

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 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.

XI. VARIANCE REQUESTS

No variance requests have been received.

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, 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.

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 1 and 2B received July 5, 2012.

B. 40 CFR CITATIONS

Citations to 40 CFR are as of February 15, 2013.

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 November 20, 2012.

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, 2012 - 2014.