

NPDES PERMIT NO. TX0134009
STATEMENT OF BASIS

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

APPLICANT:

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Plains Gas Solution (PGS) Gardendale Facility
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ISSUING OFFICE:

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DATE PREPARED:

November 25, 2014

PERMIT ACTION

It is proposed that the facility be reissued an NPDES permit for a 5-year term in accordance with regulations contained in 40 Code of Federal Regulations (CFR) 122.46(a).

40 CFR CITATIONS: Unless otherwise stated, citations to 40 CFR refer to promulgated regulations listed at Title 40, Code of Federal Regulations, revised as of November 22, 2014.

RECEIVING WATER – BASIN

Unnamed tributary of Mustang Creek, Mustang Creek is a tributary of Nueces River, Texas Segment 2105.

DOCUMENT ABBREVIATIONS

For brevity, Region 6 used acronyms and abbreviated terminology in this Statement of Basis document whenever possible. The following acronyms were used frequently in this document:

BAT	Best Available Technology Economically Achievable)
BOD ₅	Biochemical oxygen demand (five-day unless noted otherwise)
BPJ	Best professional judgment
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
F&WS	United States Fish and Wildlife Service
GPD	Gallon per day
IP	Procedures to Implement the Texas Surface Water Quality Standards
µg/l	Micrograms per liter (one part per billion)
mg/l	Milligrams per liter (one part per million)
Menu 6	Narrow Tidal Water
MGD	Million gallons per day
MSGP	Multi-Sector General Permit
NPDES	National Pollutant Discharge Elimination System
MQL	Minimum quantification level
O&G	Oil and grease
RRC	Railroad Commission of Texas
RP	Reasonable potential
SIC	Standard industrial classification
s.u.	Standard units (for parameter pH)
TAC	Texas Administrative Code
TCEQ	Texas Commission on Environmental Quality
TDS	Total dissolved solids
TMDL	Total maximum daily load
TOC	Total Organic Carbon
TRC	Total residual chlorine
TSS	Total suspended solids
TSWQS	Texas Surface Water Quality Standards
WET	Whole effluent toxicity
WQMP	Water Quality Management Plan
WQS	Water Quality Standards

I. APPLICANT LOCATION and ACTIVITY

Under the SIC Code 4612, Crude Petroleum Pipelines, the applicant operates a crude oil storage and transportation facility.

As described in the application, the facility is located at 4971 N I-35 S of the City of Cotulla, La Salle County, Texas. Wastewater discharges from the facility are as follows:

Discharges from Outfall 001 consist of cooling tower blowdown water to the stormwater retention pond. Wastewater discharges flows to unnamed tributary to Mustang Creek (Mustang Creek is a tributary of Nueces River), Texas Segment 2105, Nueces River above Holland Dam of the Nueces River Basin.

Discharges are located on that water at:

Outfall 001: Latitude 28° 30' 40"N; Longitude 99° 13' 6"W

II. PROCESS AND DISCHARGE DESCRIPTION

The facility is primarily a crude oil storage and transportation facility. Stabilized condensate enters wet surface air cooler, where it goes through four passes. Water from the basin is pumped to the top of the unit and sprayed over the tubes, where the water cools the process piping by evaporation. The cooled stabilized condensate leaves the unit on the same side as it enters. As water evaporates, makeup water is added to the basin by a float valve, and blowdown water leaves the unit via a one inch line. Wastewater discharges consist of cooling tower blowdown which will be discharged to the on-site stormwater retention pond.

Table 1: Discharge Characteristics

The facility has not had any actual discharges. The facility submitted estimated technology based effluent characteristics, but did not submit any information in its application that would describe the nature of the discharge. However, should any discharge occur, the discharge shall be sampled within one hour of beginning of the discharge for the pollutants listed at 40 CFR 122, Appendix D, Tables III and IV, plus pH, hardness, TDS, and TSS and the results submitted to EPA and RRC. Should the discharge continue for more than one day, additional samples and analyses results shall be submitted for each additional day. No more than four complete sets of analytical results are required to be submitted. After four sets of analytical results have been submitted to EPA, this permit provision is no longer required for the term of this permit. These pollutants are listed in Part 2 of the proposed permit.

The table below shows facility's pollutant concentrations contained in the NPDES application and additional permit application information submitted to EPA.

Outfall 001:

Parameter	Max Concentration, mg/L unless noted	Average Concentration, mg/L unless noted
Flow, MGD	0.006	0.006
Temperature °C	29.4 winter, 29.4 summer	
pH, su	7-9	

Parameter	Max Concentration, mg/L unless noted	Average Concentration, mg/L unless noted
TSS	<90	
COD	<50	
BOD	<5	
Total Organic Carbon	<20	

III. 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.

V. DRAFT PERMIT RATIONALE AND PROPOSED PERMIT CONDITIONS

A. OVERVIEW of TECHNOLOGY-BASED VERSUS WATER QUALITY STANDARDS-BASED EFFLUENT LIMITATIONS AND CONDITION FOR PERMIT ISSUANCE

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, on best professional judgment (BPJ) in the absence of guidelines, and/or requirements pursuant to 40 CFR 122.44(d), whichever are more stringent. Technology-based effluent limitations are established in the proposed draft permit for BOD5. Water quality-based effluent limitations are established in the proposed draft permit for pH.

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 proposed permit establishes discharge and monitoring requirements for BOD5 at Outfall 001, discharge of cooling water blowdown to the stormwater retention pond. The proposed permit establishes limitations and monitoring requirements for BOD5 of 20 mg/l monthly average and 30 mg/l daily maximum. The estimated discharge flow provided in the application for Outfall 001 is 0.006 MGD. The draft permit will not propose mass limits since the flow is variable and intermittent. Concentration limits will be protective of the stream uses.

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 Clean Water Act 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 criterion, the permit must contain an effluent limit for that pollutant. If the discharge poses the reasonable potential to cause an in-stream violation of narrative standards, the permit must contain prohibitions to protect that standard. Additionally, the TWQS found at 30 TAC Chapter 307 states that "surface waters will not be toxic to man from ingestion of water, consumption of aquatic organisms, or contact with the skin, or to terrestrial or aquatic life." The methodology outlined in the "Procedures to Implement the Texas Surface Water Quality Standards" (IP) is designed to ensure compliance with 30 TAC Chapter 307. Specifically, the methodology is designed to ensure that no source will be allowed to discharge any wastewater which: (1) results in instream aquatic toxicity; (2) causes a violation of

an applicable narrative or numerical state water quality standard; (3) results in the endangerment of a drinking water supply; or (4) results in aquatic bioaccumulation which threatens human health.

The IP document is not a state water quality standard, but rather, a non-binding, non-regulatory guidance document. See IP at page 2 stating that "this is a guidance document and should not be interpreted as a replacement to the rules. The TWQS may be found in 30 TAC Sections (§§) 307.1-.10."). EPA does not consider the IP to be a new or revised water quality standard and has never approved it as such. EPA did comment on and conditionally "approve" the IP as part of the Continuing Planning Process (CPP) required under 40 CFR §130.5(c) and the Memorandum of Agreement between TCEQ and EPA, but this does not constitute approval of the IP as a water quality standard under CWA section 303(c). Therefore, EPA is not bound by the IP in establishing limits in this permit – but rather, must ensure that the limits are consistent with the EPA-approved state WQS. However, EPA has made an effort, where we believe the IP procedures are consistent with all applicable State and Federal regulations, to use those procedures.

The general criteria and numerical criteria which make up the stream standards are provided in the 2014 EPA-approved Texas Water Quality Standards, Texas Administrative Code (TAC), 30 TAC Sections 307.1 - 307.9, effective September 23, 2014.

The designated uses of Nueces River above Holland Dam, Segment 2105, of the Nueces River Basin are primary contact recreation, high aquatic life and public water supply.

4. Reasonable Potential- Procedures

EPA develops draft permits to comply with State WQS, and for consistency, attempts to follow the IP where appropriate. However, EPA is bound by the State's WQS, not State guidance, including the IP, in determining permit decisions. EPA performs its own technical and legal review for permit issuance, to assure compliance with all applicable State and Federal requirements, including State WQS, and makes its determination based on that review. Waste load allocations (WLA's) are calculated using estimated effluent dilutions, criteria outlined in the TWQS, and partitioning coefficients for metals (when appropriate and designated in the implementation procedures). The WLA is the end-of-pipe effluent concentrations that can be discharged and still meet instream criteria after mixing with the receiving stream. From the WLA, a long term average (LTA) is calculated, for both chronic and acute toxicity, using a log normal probability distribution, a given coefficient of variation (0.6), and either a 90th or a 99th percentile confidence level. The 90th percentile confidence level is for discharges to rivers, freshwater streams and narrow tidal rivers with upstream flow data, and the 99th percentile confidence level is for the remainder of cases. For facilities that discharge into receiving streams that have human health standards, a separate LTA will be calculated. The implementation procedures for determining the human health LTA use a 99th percentile confidence level, along with a given coefficient of variation (0.6). The lowest of the calculated LTA; acute, chronic and/or human health, is used to calculate the daily average and daily maximum permit limits.

Procedures found in the IP for determining significant potential are to compare the reported analytical data either from the DMR history and/or the application information, against percentages of the calculated daily average water quality-based effluent limitation. If the average of the effluent data equals or exceeds 70% but is less than 85% of the calculated daily average limit, monitoring for the toxic pollutant will usually be included as a condition in the

permit. If the average of the effluent data is equal to or greater than 85% of the calculated daily average limit, the permit will generally contain effluent limits for the toxic pollutant. The permit may specify a compliance period to achieve this limit if necessary.

Procedures found in the IP require review of the immediate receiving stream and effected downstream receiving waters. Further, if the discharge reaches a perennial stream or an intermittent stream with perennial pools within three-miles, chronic toxicity criteria apply at that confluence.

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 WQS that are more stringent than effluent limitation guidelines are as follows:

a. pH

Wastewater discharges from the facility flow into an unnamed tributary of Mustang Creek, Mustang Creek is a tributary of Nueces River, Texas Segment 2105 of the Nueces River Basin. The designated uses of Nueces River above Holland Dam, Segment 2105, of the Nueces River Basin are primary contact recreation, high aquatic life and public water supply. The instream pH standards for Segment 2105 is in the range of 6.5 to 9.0 su's. The propose permit establishes pH limits of 6.5 - 9 at Outfall 001.

b. Narrative Limitations

Narrative protection for aesthetic standards will propose that surface waters shall be maintained so that oil, grease, or related residue will not produce a visible film or globules of grease on the surface or coat the banks or bottoms of the watercourse; or cause toxicity to man, aquatic life, or terrestrial life.

The following narrative limitations in the proposed permit represent protection of water quality for Outfall 001:

“The effluent shall contain no visible film of oil or globules of grease on the surface or coat the banks or bottoms of the watercourse.”

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.

The discharge via Outfall 001 enters unnamed tributary of Mustang Creek, Mustang Creek is a tributary of Nueces River, Texas Segment 2105 of the Nueces River Basin. The critical low flow, 7Q2 for Segment 2105, is 0.0 CFS, while the harmonic mean is 0 CFS. The facility's effluent flow is 0.006 MGD (0.009 CFS). TCEQ'S TEXTOX Menu 7 – discharge to an intermittent water body with perennial pools is appropriate for evaluating the discharge.

Chronic toxic criteria apply for 100% at the point of discharge, with incidental fishery, and human health criteria apply at the 10^{-4} risk level (incidental freshwater fish tissue).

Since the facility has not had any actual discharges, it did not submit any information in its application that would describe the nature of the discharge. However, should any discharge occur, the discharge shall be sampled within one hour of beginning of the discharge for the pollutants listed at 40 CFR 122, Appendix D, Tables III and IV, plus pH, hardness, TDS, and TSS and the results submitted to EPA and RRC. Should the discharge continue for more than one day, additional samples and analyses results shall be submitted for each additional day. These pollutants are listed in Part 2 of the proposed permit. The reasonable potential calculations shall be performed and the permit re-opened following EPA's receipt of its effluent characteristics.

Solids and Foam

The prohibition of the discharge of floating solids or visible foam in other than trace amounts is continued in the proposed permit. In addition, there shall be no discharge of visible films of oil, globules of oil, grease or solids in or on the water, or coatings on stream banks.

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). The monitoring frequencies are based on BPJ, taking into account the nature of the facility, the previous permit, and past compliance history.

For Outfall 001, flow shall be monitored daily, when discharging using a recording flow meter, BOD₅ and pH shall also be measured and reported daily when discharging, using grab sample.

E. WHOLE EFFLUENT TOXICITY LIMITATIONS

Biomonitoring is the most direct measure of potential toxicity which incorporates both the effects of synergism of effluent components and receiving stream water quality characteristics. Biomonitoring of the effluent is, therefore, required as a condition of this permit to assess potential toxicity.

OUTFALL 001

In Section V.C.5.c. above; "Toxics", it was stated that the critical dilution, CD, for the facility is 100% (including a mixing zone). Based on the nature of the discharge; industrial, the estimated average flow; 0.006 MGD, the nature of the receiving water; intermittent water body with perennial pools; and the critical dilution; 100%, the 2003 TCEQ IP directs the WET test to be a 7 day chronic test using chronic test species *Ceriodaphnia dubia* and *Pimephales promelas* at a quarterly frequency for the first year of the permit. If all WET tests pass during the first year, the permittee may request a monitoring frequency reduction for the either or both of the test species for the following 2-5 years of the permit. The invertebrate species (*Ceriodaphnia dubia*) may be reduced to twice per year and the vertebrate species (*Pimephales promelas*) may be reduced to once per year. If any tests fail during that time the frequency will revert back to the once per three months frequency for the remainder of the permit term. The both test species shall resume monitoring at a quarterly frequency on the last day of the permit.

The proposed permit requires five (5) dilutions in addition to the control (0% effluent) to be used in the toxicity tests based on a 0.75 dilution series. These additional effluent concentrations shall be 32%, 42%, 56%, 75%, and 100%.

This is a first time issued permit so no DMR reports are available. EPA concludes based on the nature of the discharge described as cooling tower blowdown, this effluent will not cause or contribute to an exceedance of the State water quality standards. Therefore WET limits will not be established in the proposed permit.

During the period beginning the effective date of the permit and lasting through the expiration date of the permit, the permittee is authorized to discharge from Outfall 001 - the discharge to an unnamed tributary of Mustang Creek, Mustang Creek is a tributary of Nueces River, Texas Segment 2105 of the Nueces River Basin. Discharges shall be monitored by the permittee as specified below:

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

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

FOOTNOTES

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

F. FINAL EFFLUENT LIMITATIONS

See the draft permit for limitations.

VI. FACILITY OPERATIONAL PRACTICES

A. 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.

B. OPERATION AND REPORTING

The permittee must submit Discharge Monitoring Report's (DMR's) quarterly, beginning on the effective date of the permit, lasting through the expiration date of the permit or termination of the permit, to report on all limitations and monitoring requirements in the permit.

VII. IMPAIRED WATER - 303(d) LIST AND TMDL

Wastewater discharges from the facility flows into an unnamed tributary of Mustang Creek, Mustang Creek is a tributary of Nueces River, Texas Segment 2105. The receiving stream is listed for depressed dissolved oxygen under category 5c in the 2012 State of Texas 303(d) List for Assessed River/Stream Reaches Requiring Total Maximum Daily Loads (TMDLs). Depressed dissolved oxygen is under TCEQ's category 5c, which implies that additional data or information will be collected and/or evaluated for one or more parameters before a management strategy is selected.

In light of the nature of the system, the discharger is not likely to contribute to depressed dissolved oxygen. Therefore, no additional requirements beyond the previously described technology-based or water quality-based effluent limitations and monitoring requirements, are established in the proposed permit.

VIII. ANTIDegradation

The Texas Commission on Environmental Quality, Texas Surface Water Quality Standards, Antidegradation, Title 30, Part 1, Chapter 307, Rule §307.5 sets forth the requirements to protect designated uses through implementation of the State WQS. The limitations and monitoring requirements set forth in the proposed permit are developed from the State WQS 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 are protective of the assimilative capacity of the receiving waters, which is protective of the designated uses of that water.

IX. ANTIBACKSLIDING

The proposed permit is consistent with the requirements and exemption to meet Antibacksliding provisions of the Clean Water Act, Section 402(o) and 40 CFR Part 122.44(i)(B), which state in part that interim or final effluent limitations must be as stringent as those in the previous permit, unless information is available which was not available at the time of permit issuance. This is a first-time permit issuance.

X. ENDANGERED SPECIES

Southwest Region 2 website, at <http://ecos.fws.gov/ipac/wizard/chooseLocation!prepare.action>, five species are listed as endangered or threatened in La Salle County. These species include: Gulf Coast Jaguarundi (*Herpailurus yagouaroundi cacomitli*), Ocelot (*Leopardus pardalis*), Least tern (*Sterna antillarum*), Piping Plover (*Charadrius melodus*) and Red Knot (*Calidris canutus*). A description of the species and its effects to the proposed permit follows

JAGUARUNDI, GULF COAST (*Herpailurus Yagouaroundi Cacomitli*)

The Jaguarundi is a small weasel-like wild cat with short rounded ears. It is also called Otter cats because of their shot legs, slender elongated bodies, and small flattened heads, giving them an otter-like appearance. They prefer lowland brush areas close to water or dense tropical areas as their habitat. They are good tree climbers and swimmers. Jaguarundis eat fish that they catch from streams and rivers. Mating occurs from September to November. The cat is suffering decline due to loss of habitat.

EPA has determined that the re-issuance of the permit will have “no effect” on the Gulf Coast Jaguarundi based on the limited information available on the species which indicates that in Texas, any current presence of jaguarundi apparently is confined to the southernmost four counties of Cameron, Willacy, Hidalgo and Starr.

OCELOT (*Leopardus Pardalis*)

The ocelot is a small cat, ranging from 15 to 30 pounds and measuring an average 3 feet 9 inches in length. Its coat has black spots, bars, and stripes on a rich tan to gray background, with irregular black dots on a white underside and dark bars on the tail. While the ocelot originally ranged over much of Texas, the cat has not been sited in Atascosa County in recent times, nor does the Service appear to have habitat conservation intent for this county in Texas. The ocelot is listed endangered due to habitat alteration and loss (primarily due to brush clearing), and predator control activities. EPA has determined that the re-issuance of the permit will have “no effect” on the Ocelot.

LEAST TERN (*Sterna Antillarum*)

The Least tern populations have declined due to habitat destruction by permanent inundation, destruction by reservoir releases, channelization projects, alterations of Natural River or lake dynamics resulting in vegetational succession of potential nesting sites, and recreational use of potential nesting sites. Issuance of this permit is found to have no impact on the habitat of this species, as none of the aforementioned listed activities is authorized by this permitting action.

A small plover has wings approximately 117 mm; tail 51 mm; weight 46-64 g (average 55 g); length averages about 17-18 cm. Inland birds have more complete breast band than Atlantic coast birds. The nonbreeding plovers lose the dark bands. In Laguna Madre, Texas, non-breeding home ranges were larger in winter than in fall or spring. The breeding season begins when the adults reach the breeding grounds in mid- to late-April or in mid-May in northern parts of the range. The adult males arrive earliest, select beach habitats, and defend established territories against other males. When adult females arrive at the breeding grounds several weeks later, the males conduct elaborate courtship rituals including aerial displays of circles and figure eights, whistling song, posturing with spread tail and wings, and rapid drumming of feet. The plovers defend territory during breeding season and at some winter sites. Nesting territory may or may not contain the foraging area. Home range during the breeding

season generally is confined to the vicinity of the nest. Plovers are usually found in sandy beaches, especially where scattered grass tufts are present, and sparsely vegetated shores and islands of shallow lakes, ponds, rivers, and impoundments.

Food consists of worms, fly larvae, beetles, crustaceans, mollusks, and other invertebrates. The plovers prefer open shoreline areas, and vegetated beaches are avoided. It also eats various small invertebrates. It obtains food from surface of substrate, or occasionally probes into sand or mud.

Strong threats related primarily to human activity; disturbance by humans, predation, and development pressure are pervasive threats along the Atlantic coast.

PIPING PLOVER (*Charadrius melodus*)

A small plover has wings approximately 117 mm; tail 51 mm; weight 46-64 g (average 55 g); length averages about 17-18 cm. Inland birds have more complete breast band than Atlantic coast birds. The nonbreeding plovers lose the dark bands. In Laguna Madre, Texas, non-breeding home ranges were larger in winter than in fall or spring. The breeding season begins when the adults reach the breeding grounds in mid- to late-April or in mid-May in northern parts of the range. The adult males arrive earliest, select beach habitats, and defend established territories against other males. When adult females arrive at the breeding grounds several weeks later, the males conduct elaborate courtship rituals including aerial displays of circles and figure eights, whistling song, posturing with spread tail and wings, and rapid drumming of feet. The plovers defend territory during breeding season and at some winter sites. Nesting territory may or may not contain the foraging area. Home range during the breeding season generally is confined to the vicinity of the nest. Plovers are usually found in sandy beaches, especially where scattered grass tufts are present, and sparsely vegetated shores and islands of shallow lakes, ponds, rivers, and impoundments.

Food consists of worms, fly larvae, beetles, crustaceans, mollusks, and other invertebrates. The plovers prefer open shoreline areas, and vegetated beaches are avoided. It also eats various small invertebrates. It obtains food from surface of substrate, or occasionally probes into sand or mud.

Strong threats related primarily to human activity; disturbance by humans, predation, and development pressure are pervasive threats along the Atlantic coast.

RED KNOT (*Calidris canutus*)

Red Knot is a medium-sized shorebird and the largest of the "peeps" in North America, and one of the most colorful. It makes one of the longest yearly migrations of any bird, traveling 15,000 km (9,300 mile) from its Arctic breeding grounds to Tierra del Fuego in southern South America.

Their diet varies according to season; arthropods and larvae are the preferred food items at the breeding grounds, while various hard-shelled molluscs are consumed at other feeding sites at other times.

The Red Knot nests on the ground, near water, and usually inland. The nest is a shallow scrape lined with leaves, lichens and moss. Males construct three to five nest scrapes in their territories prior to the arrival of the females. The female lays three or more usually four eggs, apparently

laid over the course of six days. Both parents incubate the eggs, sharing the duties equally. The incubation period last around 22 days.

The birds have become threatened as a result of commercial harvesting of horseshoe crabs in the Delaware Bay which began in the early 1990s. Delaware Bay is a critical stopover point during spring migration; the birds refuel by eating the eggs laid by these crabs (with little else to eat in the Delaware Bay).

Determination

The Environmental Protection Agency has evaluated the potential effects of issuance of this permit upon listed endangered or threatened species. After review, EPA has determined that the issuance 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 pollutants are identified by the permittee-submitted application at levels which might affect species habitat or prey species. Issuance of this permit is found to have no impact on the habitats of these species.
2. Based on information described above, EPA Region 6 has determined that discharges proposed to be authorized by the proposed permit will have no effect on the listed species in La Salle County.

The standard reopener clause in the permit will allow EPA to reopen the permit and impose additional limitations if it is determined that changes in species or knowledge of the discharge would require different permit conditions.

Operators have an independent ESA obligation to ensure that any of their activities do not result in prohibited “take” of listed species. Section 9 of the ESA prohibits any person from “taking” a listed species, e.g., harassing or harming it, with limited exceptions. See ESA Sec 9; 16 U.S.C. §1538. This prohibition generally applies to “any person,” including private individuals, businesses and government entities. Operators who intend to undertake construction activities in areas that harbor endangered and threatened species may seek protection from potential “take” liability under ESA section 9 either by obtaining an ESA section 10 permit or by requesting coverage under an individual permit and participating in the section 7 consultation process with the appropriate FWS or NMFS office. Operators unsure of what is needed for such liability protection should confer with the appropriate Services.

XI. HISTORICAL AND ARCHEOLOGICAL PRESERVATION CONSIDERATIONS

The issuance of the permit should have no impact on historical and/or archeological preservation since no structure or historic properties are known to occur within the area of review. Information obtained from the permit application show that a single archaeological site (41LS187) has been previously recorded within the vicinity. Information also show that site 41LS187 consisted of ruins of a homestead; the site was reportedly identified in 2012 during the cultural resources inventory of an unspecified pipeline project. No information regarding the possible date or the historic preservation significance of the site was provided. The site would most likely have been destroyed by the industrial development of area taken place prior to initial recording of site 41LS187 in 2012. Due to this prior disturbance and the fact that no ground

disturbance will occur as a result of the currently proposed project, facility concludes that issuance of this permit will have no impact on any historic properties. Furthermore, the facility submitted a consultation letter to the Texas Historical Commission (THC) on October 22, 2014, requesting concurrence that issuance of the NPDES permit will have no impact on historical and/or archeological preservation. The facility received concurrence on October 27, 2014, that there are no historic properties and that the project may proceed.

XII. PERMIT REOPENER

The permit may be reopened and modified during the life of the permit if relevant portions of the Texas WQS are revised or remanded. In addition, the permit may be reopened and modified during the life of the permit if relevant procedures implementing the WQS are either revised or promulgated. Should the State adopt a new WQS, and/or develop a TMDL, this permit may be reopened to establish effluent limitations for the parameter(s) to be consistent with that approved State standard and/or water quality management plan, in accordance with 40 CFR §122.44(d). Modification of the permit is subject to the provisions of 40 CFR §124.5.

XIII. VARIANCE REQUESTS

No variance requests have been received.

XIV. COMPLIANCE HISTORY

This is a first-time permit issuance.

XV. CERTIFICATION

This 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.

XVI. FINAL DETERMINATION

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

XVII. ADMINISTRATIVE RECORD

The following information was used to develop the proposed permit:

A. APPLICATION

NPDES Application for Permit to Discharge, Form 1 & 2E, received on June 11, 2014, and was deemed administratively incomplete on September 15, 2014. Additional permit application information was received on November 10, 2014; and was deemed administratively complete on November 24, 2014.

B. State of Texas References

The State of Texas Water Quality Inventory, 13th Edition, Publication No. SFR-50, Texas Commission on Environmental Quality, December 1996.

"Procedures to Implement the Texas Surface Water Quality Standards via Permitting," Texas Commission on Environmental Quality, January 2003.

Texas Surface Water Quality Standards, 30 TAC Sections 307.1 - 307.9, effective September 23, 2014.

<http://ecos.fws.gov/ipac/wizard/chooseLocation!prepare.action>

C. 40 CFR CITATIONS

Sections 122, 124, 125, 133, and 136

D. MISCELLANEOUS CORRESPONDENCE

Letter from Dorothy Brown, EPA, to Mr. Warren Fusilier, Plains Pipeline, L.P, dated November 24, 2014, informing the applicant that its NPDES application received June 11, 2014, is administratively complete.

Letter from Mr. Warren Fusilier, Plains Pipeline, L.P, to Ms. Maria Okpala, EPA, dated November 7, 2014, on supplemental information required for the NPDES permit application.

Letter from Dorothy Brown, EPA, to Mr. Warren Fusilier, Plains Pipeline, L.P, dated September 15, 2014, informing the applicant that its NPDES application received June 11, 2014, is administratively incomplete.

Email from Robert Kirkland, EPA, to Maria Okpala, EPA, dated September 11, 2014, on critical conditions information.