

**NPDES PERMIT NO. TX0133992**  
**STATEMENT OF BASIS**

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

**APPLICANT:**

DCP Midstream, Eagle Gas Plant  
370 17<sup>th</sup> Street, Suite 2500  
Denver, CO 80303

**ISSUING OFFICE:**

U.S. Environmental Protection Agency  
Region 6  
1445 Ross Avenue  
Dallas, Texas 75202-2733

**PREPARED BY:**

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**DATE PREPARED:**

May 2, 2013

**PERMIT ACTION**

It is proposed that the facility be issued 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 March 29, 2013.

**RECEIVING WATER – BASIN**

Unnamed drainage ditch, thence to Sutherlands Creek, thence to Brushy Creek which discharges into Sandy Creek, then to Lake Texana, Segment 1604C of the Lavaca River Basin.

**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 <sub>5</sub>	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 7	Intermittent stream with perennial pools
MGD	Million gallons per day
MSGP	Multi-Sector General Permit
NPDES	National Pollutant Discharge Elimination System
MLQ	Minimum quantification level
O&G	Oil and grease
RRC	Railroad Commission of Texas
RP	Reasonable potential
SIC	Standard industrial classification
SWP3	Storm Water Pollution Prevention Plan
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. PROPOSED CHANGES FROM PREVIOUS PERMIT

New Discharger

## II. APPLICANT LOCATION and ACTIVITY

Under the SIC Code 1321, the applicant operates a natural gas processing plant.

As described in the application, the facility is located at 3048 CR 282, Edna, Jackson County, Texas. Wastewater discharges from the facility flows into an unnamed drainage ditch 2.8 miles upstream from Sutherlands Creek which is an intermittent stream. Sutherlands Creek discharges into Brushy Creek which in turn discharges into Sandy Creek, then to Lake Texana, Segment 1604C of the Lavaca River Basin.

Discharges from Outfall 001 consist of reverse osmosis concentrate and stormwater

Discharges are located on that water at:

Outfall 001: Latitude 29° 8' 9"; Longitude 96° 39' 32"

## III. PROCESS AND DISCHARGE DESCRIPTION

The facility will process field gas from oil and gas wells by removing condensed liquids, water vapor, hydrogen sulfide, and natural gas liquids. Saleable products include methane, natural gas liquids, and condensate.

The wastewater-generating process is reverse osmosis treatment of groundwater. Groundwater under pressure is forced through semi-permeable membranes. The permeate (pure water) is used in the plant, and the concentrate (wastewater) is discharged to an on-site detention pond prior to discharge from the site.

**Table 1: Discharge Characteristics for Outfall 001**

The table below shows facility's pollutant concentrations contained in the NPDES application.

Parameter	Max Concentration, mg/L unless noted	Average Concentration, mg/L unless noted
Flow, MGD	0.009	0.006
pH, su	7.4	7.4
TSS	<25	<25
TOC	<10	<10
COD	<10	<10
BOD	<10	<10
Total Dissolved Solids	3,900	3,900
Ammonia (as Nitrogen)	<1	<1
Temperature (winter)	20°C	20°C
Temperature (summer)	25 °C	25°C
Fluoride	0.6	0.6
Nitrate/Nitrite as N	0.6	0.6
Sulfate	150	150

<b>Parameter</b>	<b>Max Concentration, mg/L unless noted</b>	<b>Average Concentration, mg/L unless noted</b>
Chloride	800	800
Barium	0.06	0.06
Magnesium	0.7	0.7

#### **IV. REGULATORY AUTHORITY/PERMIT ACTION**

In November 1972, Congress passed the Federal Water Pollution Control Act establishing the NPDES permit program to control water pollution. These amendments established technology-based or end-of-pipe control mechanisms and an interim goal to achieve “water quality which provides for the protection and propagation of fish, shellfish, and wildlife and provides for recreation in and on the water;” more commonly known as the “swimmable, fishable” goal. Further amendments in 1977 of the CWA gave EPA the authority to implement pollution control programs such as setting wastewater standards for industry and established the basic structure for regulating pollutants discharges into the waters of the United States. In addition, it made it unlawful for any person to discharge any pollutant from a point source into navigable waters, unless a permit was obtained under its provisions. Regulations governing the EPA administered NPDES permit program are generally found at 40 CFR §122 (program requirements & permit conditions), §124 (procedures for decision making), §125 (technology-based standards) and §136 (analytical procedures). Other parts of 40 CFR provide guidance for specific activities and may be used in this document as required.

It is proposed that the permit be issued for a 5-year term following regulations promulgated at 40 CFR 122.46(a). This is a first-time permit issuance. An NPDES Application for a Permit to Discharge (Form 1 & 2D) was received on March 5, 2013, and was deemed administratively incomplete March 28, 2013. Additional permit application information was submitted via email on April 8, 2013; and was deemed administratively complete on April 15, 2013.

#### **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. Water quality-based effluent limitations are established in the proposed draft permit for pH.

##### **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.

There are no published ELG's for this type of activity. Final effluent requirements are based on Technology requirements and are based on Best Available Technology Economically Achievable (BAT) and/or TCEQ water quality standards for Segment No.1604.

The facility discharges reverse osmosis reject water and does not use any water treatment chemicals. As a result, BOD5 and/or COD limits are not included in the proposed permit.

The narrative limitation for Oil & Grease is established in the proposed permit based on the TCEQ narrative standard to limit Oil & Grease.

Stormwater has been identified by the permittee as a component of the discharge through Outfall No. 001. Stormwater pollution prevention requirements are established in the proposed permit. It is proposed that the facility conduct annual inspection of the facility to identify areas contributing to the storm water discharge and identify potential sources of pollution which may affect the quality of storm water discharges from the facility.

The proposed permit requires the permittee to maintain a site map. The site map shall include all areas where storm water may contact potential pollutants or substances which can cause pollution. It is also proposed that all spilled product and other spilled wastes be immediately cleaned up and properly disposed. The permit prohibits the use of any detergents, surfactants or other chemicals from being used to clean up spilled product. Additionally, the permit requires all waste fuel, lubricants, coolants, solvents or other fluids used in the repair or maintenance of vehicles or equipment be recycled or contained for proper disposal. All diked areas surrounding storage tanks or stormwater collection basins shall be free of residual oil or other contaminants so as to prevent the accidental discharge of these materials in the event of flooding, dike failure, or improper draining of the diked area. The permittee shall amend the SWP3 whenever there is a change in the facility or change in operation of the facility.

## 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 2010 EPA-approved Texas Water Quality Standards, Texas Administrative Code (TAC), 30 TAC Sections 307.1 - 307.9, effective August 24, 2012.

The designated uses of Lake Texana, Segment 1604 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 drainage ditch 2.8 miles upstream from Sutherlands Creek which is an intermittent stream. Sutherlands Creek discharges into Brushy Creek which in turn discharges into Sandy Creek, then to Lake Texana, Segment 1604C of the Lavaca River Basin. The designated uses of Lake Texana, Segment 1604C are contact recreation, high aquatic life, public water supply. pH shall be limited to the standards for the Lake Texana in Water Body Segment No. 1604C of the Lavaca River Basin to the range of 6.5 to 9.0 s.u.

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 critical low flow, 7Q2 for the receiving stream is 0.02 cfs, while the harmonic mean is 0.05 cfs. The facility discharges into an unnamed drainage ditch 2.8 miles upstream from Sutherlands Creek which is an intermittent stream. Sutherlands Creek discharges into Brushy Creek which in turn discharges into Sandy Creek, then to Lake Texana, Segment 1604C of the Lavaca River Basin. This is an intermittent waterbody that does not enter any perennial water bodies within three miles. TCEQ'S TEXTOX Menu 1 is appropriate for evaluating the discharge.

Although the facility has not had any actual discharges, it submitted information in its application that would describe the nature of the discharge. A review of the effluent characteristics contained in the permit application is not a true representation of the facility's discharges. As a result, no water quality modeling will be performed at this time. 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. The reasonable potential calculations shall be performed and the permit re-opened following EPA's receipt of its effluent characteristics.

Information contained in the application shows that TDS is present in the discharge and was screened using the procedures found on page 87 of the IP. Using these procedures, the TDS effluent concentration found in the permit application is 3,900 mg/l. The permittee stated in its application that the receiving stream for Eagle Gas Plant is a constructed drainage ditch that is ephemeral. According to the Texas IP, the screening value, C<sub>sv</sub>, for this type of receiving stream is 4,000 mg/l. Since the effluent concentration of 3,900 mg/l is less than the TDS screening value, 4,000 mg/L, TDS limitations are not established in the proposed permit. However, since the effluent TDS concentration is close to the TDS screening value, a TDS monitoring requirements is established in the proposed permit.

## Solids and Foam

The prohibition of the discharge of floating solids or visible foam in other than trace amounts is established 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.

Flow shall be recorded continuously, when discharging. The permittee shall monitor for pH and TDS, once per month, using grab samples.

### 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. Although the facility does not use any chemical, WET monitoring requirements are established in the proposed permit based on the level of TDS in the effluent.

#### OUTFALL 001

Based on the nature of the discharge; industrial, the estimated average flow; 0.006 MGD, the nature of the receiving water; intermittent water body; and the critical dilution; 100%, the TCEQ IP directs the WET test to be a 48-hour acute testing using *Daphnia pulex* and *Pimephales promelas* at a quarterly (once per three-month) frequency for both the vertebrate and the invertebrate test.

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 the first biomonitoring test for the facility so no DMR reports are available. EPA concludes that based on the nature of the discharge described as treated groundwater, 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 reverse osmosis reject water and stormwater from Outfall 001, thence to an unnamed drainage ditch 2.8 miles upstream from Sutherlands Creek, then to Brushy Creek which in turn discharges into Sandy Creek, then to Lake Texana, Segment 1604C of the Lavaca River Basin. Such discharges shall be limited and monitored by the permittee as specified below:

EFFLUENT CHARACTERISTIC	DISCHARGE MONITORING	
	<u>30-DAY AVG MINIMUM</u>	<u>48-Hr. MINIMUM</u>
Whole Effluent Toxicity Testing (48 Hr. Static Renewal) <u>1/</u>		
<u>Daphnia pulex</u>	REPORT	REPORT
<u>Pimephales promelas</u>	REPORT	REPORT

EFFLUENT CHARACTERISTIC	MONITORING REQUIREMENTS	
	<u>FREQUENCY</u>	<u>TYPE</u>
Whole Effluent Toxicity Testing (48 Hr. Static Renewal) <u>1/</u>		
<u>Daphnia pulex</u>	1/Quarter	24-Hr. Composite
<u>Pimephales promelas</u>	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 flow into an unnamed drainage ditch, thence to Sutherlands Creek, thence to Brushy Creek which discharges into Sandy Creek, then to Lake Texana, Segment 1604C of the Lavaca River Basin. The receiving stream is not listed as impaired in the 2010 State of Texas 303(d) List for Assessed River/Stream Reaches Requiring

Total Maximum Daily Loads (TMDLs). Therefore, no additional requirements beyond the already proposed technology-based and/or water-quality based requirements are needed 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. There are no increases of pollutants being discharged to the receiving waters authorized in the proposed permit.

### **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. Since this is a first time NPDES Permit for this discharge, antibacksliding does not apply.

### **X. ENDANGERED SPECIES**

According to the most recent county listing available at US Fish and Wildlife Service (USFWS), Southwest Region 2 website, [http://www.fws.gov/southwest/es/ES\\_Lists\\_Main.cfm](http://www.fws.gov/southwest/es/ES_Lists_Main.cfm), two species are listed as endangered species listed in Jackson County.

#### **WHOOPING CRANE (*Grus americana*)**

The tallest bird in North America, the Whooping Crane breeds in the wetlands of Wood Buffalo National Park in northern Canada and spends the winter on the Texas coast at Arkansas National Wildlife Refuge near Rockport. Cranes live in family groups made up of the parents and 1 or 2 offspring. In the spring, Whooping Cranes perform courtship displays (loud calling, wing flapping, and leaps in the air) as they get ready to migrate to their breeding grounds. Whooping Cranes are endangered because much of their wetland habitat has been drained for farmland and pasture. Whooping Cranes are nearly 5 feet tall. They eat Blue crabs, clams, frogs, minnows, rodents, small birds, and berries. They are found in large wetland areas. Cranes are considered sacred in many parts of the world. In China, they are a symbol of long life

#### **WEST INDIAN MANATEE (*Trichechus manatus*)**

West Indian manatees are large, gray aquatic mammals with bodies that taper to a flat, paddle-shaped tail. They have two forelimbs, called flippers, with three to four nails on each flipper. Their head and face are wrinkled with whiskers on the snout. The manatee's closest relatives are the elephant and the hyrax. Manatees are believed to have evolved from a wading, plant-eating animal. The average adult manatee is about 10 feet long and weighs between 800 and 1,200 pounds.

Manatees can be found in shallow, slow-moving rivers, estuaries, saltwater bays, canals, and coastal areas - particularly where seagrass beds or freshwater vegetation flourish. Manatees are a migratory species.

Manatees are gentle and slow-moving animals. Most of their time is spent eating, resting, and traveling. Manatee are mostly herbivorous, however small fish and invertebrates can sometimes be ingested along with a manatee's normal vegetation diet.

West Indian manatees have no natural enemies, and it is believed they can live 60 years or more. As with all wild animal populations, a certain percentage of manatee mortality is attributed to natural causes of death such as cold stress, gastrointestinal disease, pneumonia, and other diseases. A high number of additional fatalities are from human-related causes. Most human-related manatee fatalities occur from collisions with watercraft. Other causes of human-related manatee mortality include being crushed and/or drowned in canal locks and flood control structures; ingestion of fish hooks, litter, and monofilament line; and entanglement in crab trap lines. Ultimately, loss of habitat is the most serious threat facing manatees in the United States today.

#### Determination

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.

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. The pollutant level authorized under 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 Jackson 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.

## **XI. HISTORICAL AND ARCHEOLOGICAL PRESERVATION CONSIDERATIONS**

The issuance of the permit should have no impact on historical and/or archeological sites since no construction activities are planned in the issuance. The facility also stated in a cover letter dated January 21, 2013, that no impacts to cultural resources are associated with this project.

## **XII. PERMIT REOPENER**

The permit may be reopened and modified during the life of the permit if relevant portions of the New Mexico 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 & 2D, received on March 5, 2013. Additional Permit application information submitted on April 10, 2013.

#### **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.

2010 Texas Surface Water Quality Standards, 30 TAC Sections 307.1 - 307.9, effective August 24, 2012.

[http://www.fws.gov/southwest/es/ES\\_Lists\\_Main.cfm](http://www.fws.gov/southwest/es/ES_Lists_Main.cfm)

#### **D. 40 CFR CITATIONS**

Sections 122, 124, 125, 133, and 136

#### E. MISCELLANEOUS CORRESPONDENCE

Letter from Dorothy Brown, EPA, to Mr. Matthew C. Finley, DCP Midstream, Eagle Gas Plant, dated April 15, 2013, informing applicant that its' NPDES application received March 5, 2013, is administratively complete.

Letter from Dorothy Brown, EPA, to Mr. Matthew C. Finley, DCP Midstream, Eagle Gas Plant, dated March 28, 2013, informing applicant that its' NPDES application received March 5, 2013, is administratively incomplete.

Email from James Machines, TRC Solutions, to Maria Okpala, EPA, dated April 8, 2013, on additional Permit application information.

Email from Robert Kirkland, EPA, to Maria Okpala, EPA, dated March 12, 2013, on critical conditions information.