

NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM
FINAL PERMIT FACT SHEET
June 2014

Permittee Name: Santa Ynez Band of Chumash Indians

Mailing Address: P.O. Box 517
Santa Ynez, CA 93460

Facility Location: 3400 East Highway 246
Santa Ynez, CA 93460

Contact Persons: William Wyatt, Tribal Administrator
Julie Randall, Water Quality Specialist
Kevin McKennon, Operator

NPDES Permit No.: CA0050008

I. STATUS OF PERMIT

The Santa Ynez Band of Chumash Indians (the “permittee”) has applied for the renewal of their National Pollutant Discharge Elimination System (NPDES) permit to authorize the discharge of treated domestic wastewater from the Santa Ynez Band of Chumash Indians Wastewater Treatment Plant (the “facility”) to Zanja de Cota Creek, tributary to the Santa Ynez River, located in Santa Barbara County, California. A complete application was submitted on March 13, 2014. EPA Region IX has developed this permit and fact sheet pursuant to Section 402 of the Clean Water Act, which requires point source dischargers to control the amount of pollutants that are discharged to waters of the United States through obtaining a NPDES permit.

The permittee is currently discharging under NPDES permit CA0050008 issued on June 3, 2009 and expiring on June 30, 2014. Pursuant to 40 CFR 122.21, the terms of the existing permit are administratively extended until the issuance of a new permit.

This permittee has been classified as a minor discharger.

II. GENERAL DESCRIPTION OF FACILITY

The facility serves approximately 6,450 people on the Santa Ynez Reservation, Casino & Hotel Complex, Administration Buildings and Health Clinic, including about 350 residents, 100 employees, and 6,000 patrons per day. Wastewater collected through the sewer system gravity flows to the WWTP. Operation and maintenance of the facility and collection system is conducted by the Santa Ynez Community Services District.

The facility treats an average of 130,000 gallons per day with a maximum daily flow of 180,000 gallons. The design capacity of the system is 200,000 gallons per day. About half of the treated wastewater is re-used instead of discharged.

Influent at the treatment facility is sent to a flow equalization basin and combined with returned sludge before undergoing screening, aeration and sedimentation. Secondary effluent is then chemically coagulated and filtered prior to UV disinfection. Tertiary treated effluent that is not discharged is stored on-site before being re-used for irrigation or sent to the casino or Reservation. A chlorine residual is maintained for stored treated wastewater to minimize re-growth.

III. DESCRIPTION OF RECEIVING WATER

The facility discharges from Outfall 001 into the Zanja de Cota Creek, a tributary of the Santa Ynez River. Approximately 1.3 miles downstream of the outfall, the creek flows off the Reservation and into California state waters.

No water quality standards have been established for Zanja de Cota Creek by the tribe in the vicinity of the outfall, therefore EPA is applying downstream water quality standards as specified in the Water Quality Control Plan for the Central Coast Region (the “Basin Plan”).

IV. DESCRIPTION OF DISCHARGE

A. Application Discharge Data

As part of the application for permit renewal, the permittee provided data from an analysis of the facility’s treated wastewater discharge, shown in Table 1. Pollutants believed to be absent or never detected in the effluent are not included.

Table 1. Application Discharge Data.

Parameter	Units	Discharge Data ⁽¹⁾	
		Maximum Daily Discharge	Average Daily Discharge
Flow	MGD	0.14	0.07
pH	Standard Units	7.01-7.86 (min-max)	
Biochemical Oxygen Demand, 5-day (BOD ₅)	mg/L	12.5	2.1
Total Suspended Solids (TSS)	mg/L	9.0	1.9
Oil & Grease	mg/L	13	.22
Ammonia (as N)	mg/L	10.8	.93
Total Residual Chlorine	mg/L	Not Detected	Not Detected
Nitrate and Nitrite N	mg/L as N	4.1	2.2
Total Kjeldahl	mg/L	13	1.5

Parameter	Units	Discharge Data ⁽¹⁾	
		Maximum Daily Discharge	Average Daily Discharge
Nitrogen (TKN)			
Total Phosphorus	mg/L	.40	.07
Total Dissolved Solids (TDS)	mg/L	1190	886
Dissolved Oxygen	mg/L	5.7 (min)	7.1
Fecal Coliform	mpn	1600	46

⁽¹⁾ Based on permittee's NPDES renewal application.

B. Recent Discharge Monitoring Report (DMR) Data (2010-2014)

Table 2 provides a summary of effluent limitations and monitoring data based on the facility's most recent 5 years of DMR submissions.

Table 2. Discharge Monitoring Report Data for years 2010-2014.

Parameter	Units	Current Permit Effluent Limitations			DMR Data Summary	Monitoring Requirement	
		Avg Monthly	Avg Weekly	Max Daily	Max Effluent Concentration	Monitoring Frequency	Sample Type
Flow Rate	MGD	Monitoring Only	Monitoring Only	0.2	.162	Once/Day	Composite or Discrete
Ammonia (as N)	mg/L	Monitoring Only	--	Monitoring Only	10.8	Once/Month	Composite
Biochemical Oxygen Demand (5-day)	mg/L	10	15	--	12.5	Once/Week	Composite
	lbs/day	16.69	25.04	50.08	7.37		
	Percent Removal	85% (minimum)			98.2% (minimum)		
Total Suspended Solids	mg/L	10	15	--	9	Once/Week	Composite
	lbs/day	16.69	25.04	50.08	5.3		
	Percent Removal	85% (minimum)			96.1% (minimum)		
Oil & Grease	mg/L	Monitoring Only	--	Monitoring Only	68	Once/Week	Discrete
Total Coliform	MPN/100mL	2.2	--	2.2	1600 ⁽¹⁾	Once/Month	Discrete
Total Dissolved Solids	mg/L	Monitoring Only	--	Monitoring Only	1190	Once/Month	Composite
Settleable Solids	ml/L	1	--	2	0.5	Once/Week	Discrete
Total Residual Chlorine	mg/L	Monitoring Only	Monitoring Only	Monitoring Only	N/A – Effluent does not require disinfection.	Once/Month	Discrete
Total Nitrogen (as N)	mg/L	5	--	7.5	14	Once/Month	Discrete

Total Phosphorous	mg/L	Monitoring Only	--	Monitoring Only	0.4	Once/Month	Discrete
Turbidity	NTU	2	--	5	4.74	Continuous	Discrete
Temperature	°C	Monitoring Only	--	Monitoring Only	23.1 (min)- 29.7 (max)	Once/Day	Discrete
pH	Standard Units	Between 7.0 and 8.3 SU at all times; discharge shall not change pH in receiving water by more than 0.5 SU			7.01 (min) - 7.91 (max)	Once/Day	Discrete

⁽¹⁾ Only instance of detectable coliform since May 2010. Effluent sample of 1,600 MPN believed to be sampling error.

V. SIGNIFICANT CHANGES TO PREVIOUS PERMIT

- Effluent limits established for flow, dissolved oxygen, oil & grease, unionized ammonia, and total dissolved solids.
- New effluent monitoring requirements for chronic toxicity, sodium, dissolved oxygen, and all priority pollutants.
- New continuous effluent monitoring requirement for flow at outfall.
- Reduced effluent monitoring requirements for settleable solids, oil & grease, and phosphorus.
- New or increased receiving water monitoring for sodium, turbidity, and temperature.
- Elimination of receiving water monitoring for alkalinity, fecal coliform, total nitrogen, suspended solids, phosphorus, methylene blue activated substances, phenols, PCBs, and Phthalate esters.

VI. DETERMINATION OF NUMERICAL EFFLUENT LIMITATIONS

EPA has developed effluent limitations and monitoring requirements in the permit based on an evaluation of the technology used to treat the pollutant (e.g., “technology-based effluent limits”) and the water quality standards applicable to the receiving water (e.g., “water quality-based effluent limits”). EPA has established the most stringent of applicable technology-based or water quality-based standards in the proposed permit, as described below.

A. Applicable Technology-Based Effluent Limitations

EPA developed technology-based treatment standards for municipal wastewater treatment plants in accordance with Section 301(b)(1)(B) of the Clean Water Act. Minimum levels of effluent quality attainable by secondary treatment for Biochemical Oxygen Demand (BOD₅), Total Suspended Solids (TSS), and pH, are defined in 40 CFR 133.102.

The applicant operates a tertiary treatment facility which includes chemically-assisted filtration. Standards associated with advanced treatment require more stringent limitations. The below tertiary limits have been carried over from the previous permit.

Mass limits, as required by 40 CFR 122.45(f), are also included for BOD₅ and TSS.

BOD₅

Concentration-based Limits

30-day average – 10 mg/L

7-day average – 15 mg/L

Removal Efficiency – minimum of 85%

Mass-based Limits

30-day average – (10 mg/L)(0.2 MGD)(8.345 conversion factor) = 16.7 lbs/day
7-day average – (15 mg/L)(0.2 MGD)(8.345 conversion factor) = 25.0 lbs/day

TSS

Concentration-based Limits

30-day average – 10 mg/L
7-day average – 15 mg/L
Removal efficiency – Minimum of 85%

Mass-based Limits

30-day average – (10 mg/L)(0.2 MGD)(8.345 conversion factor) = 16.7 lbs/day
7-day average – (15 mg/L)(0.2 MGD)(8.345 conversion factor) = 25.0 lbs/day

pH

Instantaneous Measurement: 6.0 – 9.0 standard units (S.U.)

Technology-based treatment requirements may be imposed on a case by case basis under Section 402(a)(1) of the Act, to the extent that EPA promulgated effluent limitations are inapplicable (i.e., the regulation allows the permit writer to consider the appropriate technology for the category or class of point sources and any unique factors relating to the applicant) (40 CFR 125.3(c)(2)).

The minimum levels of effluent quality attainable by secondary treatment for Settleable Solids, as specified in the EPA Region IX Policy memo dated May 14, 1979, are listed below:

Settleable Solids

30-day average – 1 mL/L
Daily maximum – 2 mL/L

It is EPA's best professional judgment ("BPJ") that due to the amount of treated wastewater being diverted for re-use, effluent should meet the conditions of California "Title 22" (tertiary standards for reclamation of water). The below limits are consistent with the goals established in Title 22 and carried over from the previous permit:

Turbidity

Monthly average – 2 NTU
Daily maximum – 5 NTU

Total Coliform Bacteria

7-day median – 2.2 MPN/100ml.

Therefore, effluent limits for BOD₅, TSS, Settleable Solids, Turbidity, and Total Coliform Bacteria are established in the permit as stated above.

B. Water Quality-Based Effluent Limitations

Water quality-based effluent limitations are required in NPDES permits when the permitting authority determines that a discharge causes, has the reasonable potential to cause, or contributes to an excursion above any water quality standard (40 CFR 122.44(d)(1)).

When determining whether an effluent discharge causes, has the reasonable potential to cause, or contributes to an excursion above narrative or numeric criteria, the permitting authority shall use procedures which account for existing controls on point and non-point sources of pollution, the variability of the pollutant or pollutant parameter in the effluent, the sensitivity of the species to toxicity testing (when evaluating whole effluent toxicity) and where appropriate, the dilution of the effluent in the receiving water (40 CFR 122.44(d)(1)(ii)).

EPA evaluated the reasonable potential to discharge toxic pollutants according to guidance provided in the *Technical Support Document for Water Quality-Based Toxics Control* (TSD) (Office of Water Enforcement and Permits, U.S. EPA, March 1991) and the *U.S. EPA NPDES Permit Writers Manual* (Office of Water, U.S. EPA, December 1996). These factors include:

1. Applicable standards, designated uses and impairments of receiving water
2. Dilution in the receiving water
3. Type of industry
4. History of compliance problems and toxic impacts
5. Existing data on toxic pollutants - Reasonable Potential Analysis

1. Applicable Standards, Designated Uses and Impairments of Receiving Water

Water Quality Standards have not been established for Zanja de Cota Creek within the reservation, however downstream standards do apply. The Central Coast Basin Plan establishes water quality criteria for the following beneficial uses in the Santa Ynez River, downstream:

- Municipal and Domestic Supply (MUN)
- Agricultural Supply (AGR)
- Industrial Process Supply (PROC)
- Industrial Service Supply (IND)
- Ground Water Recharge (GWR)
- Water Contact Recreation (REC-1)
- Non-Contact Water Recreation (REC-2)
- Wildlife Habitat (WILD)
- Cold Fresh Water Habitat (COLD)
- Warm Fresh Water Habitat (WARM)
- Migration of Aquatic Organisms (MIGR)
- Spawning, Reproduction, and/or Early Development (SPWN)
- Rare, Threatened, or Endangered Species (RARE)
- Freshwater Replenishment (FRESH)
- Commercial and Sport Fishing (COMM)

The lower Santa Ynez River (Cachuma Lake to below city of Lompoc) is listed as impaired according to the CWA Section 303(d) List of Water Quality Limited Segments for sedimentation/siltation, sodium, temperature, and total dissolved solids. A TMDL has not yet been developed to address relevant impairments.

Numeric effluent limitations have been established for TSS, suspended solids, turbidity, and total dissolved solids which are protective of water quality in the Santa Ynez River. Monitoring has been included for sodium to inform future reasonable potential analyses and effluent limitation calculations. A narrative effluent limitation has been established for temperature. Additionally, monthly upstream and downstream receiving water monitoring has been established for all impaired pollutants.

2. Dilution in the Receiving Water

No dilution of the effluent has been considered in the development of water quality-based effluent limits applicable to the discharge. In the case of TDS, standards are modeled to be met in-stream at the boundary of the tribal reservation.

3. Type of Industry

Typical pollutants of concern in untreated and treated domestic wastewater include ammonia, nitrate, oxygen demand, pathogens, temperature, pH, oil & grease, turbidity and solids.

4. History of Compliance Problems and Toxic Impacts

The applicant does not have a history of noncompliance. Elevated TDS in the receiving water has, however, exceeded action-levels in the previous permit on numerous occasions. Elevated TDS is a direct result of re-use efforts by the permittee which result in increased salt concentrations in the effluent. Due to the downstream impairment for TDS in the receiving water, effluent limitations have been established in this permit. Limits have been expressed as an annual average, consistent with the objective in the Basin Plan.

5. Existing Data on Toxic Pollutants

For pollutants with effluent data available, EPA has conducted a reasonable potential analysis based on statistical procedures outlined in EPA's *Technical Support Document for Water Quality-based Toxics Control* herein after referred to as EPA's TSD (EPA 1991). These statistical procedures result in the calculation of the projected maximum effluent concentration based on monitoring data to account for effluent variability and a limited data set. The projected maximum effluent concentrations were estimated assuming a coefficient of variation of 0.6 and the 99 percent confidence interval of the 99th percentile based on an assumed lognormal distribution of daily effluent values (sections 3.3.2 and 5.5.2 of EPA's TSD). EPA calculated the projected maximum effluent concentration for each pollutant using the following equation:

$$\text{Projected maximum concentration} = C_e \times \text{reasonable potential multiplier factor.}$$

Where, "C_e" is the reported maximum effluent value and the multiplier factor is obtained from Table 3-1 of the TSD.

Summary of Reasonable Potential Statistical Analysis:

Parameter	Maximum Observed Concentration	<i>n</i>	RP Multiplier	Projected Maximum Effluent Concentration	Most Stringent Water Quality Criterion	Statistical Reasonable Potential?
Ammonia	10.8 mg/l	36	2.3	24.8 mg/l	25 ug/l	Y
Dissolved Oxygen	5.72 mg/l (minimum)	1,096	N/A	N/A	5 mg/l	Y
Total Dissolved Solids	1,190 mg/l	36	2.3	2,740 mg/l	700 mg/l	Y

C. Rationale for Numeric Effluent Limits and Monitoring

EPA evaluated the typical pollutants expected to be present in the effluent and selected the most stringent of applicable technology-based standards or water quality-based effluent limitations. Where effluent concentrations of toxic parameters are unknown or are not reasonably expected to be discharged in concentration that have the reasonable potential to cause or contribute to water quality violations, EPA may establish monitoring requirements in the permit. Where monitoring is required, data will be re-evaluated and the permit may be re-opened to incorporate effluent limitations as necessary.

Flow

Limits have been established for flow based on the designed maximum flow rate of the facility.

BOD₅, TSS, Settleable Solids, Turbidity, and Total Coliform Bacteria

Limits for BOD₅ and TSS are established as technology-based effluent limitations as described in Section VI.A., above.

Ammonia

Treated and untreated domestic wastewater may contain levels of ammonia that are toxic to aquatic organisms. Ammonia is converted to nitrate during biological nitrification process, and then nitrate is converted to nitrogen gas through biological denitrification process. The Basin Plan requires that the discharge of wastes shall not cause concentrations of unionized ammonia to exceed 0.025 mg/l in all inland surface waters. Effluent limitations have been established accordingly.

Dissolved Oxygen

The Basin Plan requires dissolved oxygen to not be reduced below 5.0 mg/l at anytime for all inland surface waters. Effluent limitations have been established accordingly.

pH

The Basin Plan requires that pH values not be depressed below 7.0 in any inland surface water. It also requires pH values to not be raised above 8.3 in order to be protective of most beneficial uses in the receiving water. Effluent limitations have been established accordingly.

Total Dissolved Solids

The above analysis revealed a reasonable potential to exceed water quality standards established for TDS in the segment of the Santa Ynez River between the Cachuma Reservoir and Solvang.

The discharger has provided data for TDS concentration in the receiving water and effluent. EPA conducted a third order polynomial regression to model the correlation between TDS concentration in the effluent and TDS concentration in the creek as it leaves the Reservation ($R^2=.541$). EPA found that an effluent concentration of 1,170 mg/l corresponded to a downstream concentration of 700 mg/l. The average concentration of TDS in effluent in 2013 was 1,050 mg/l. Using BPJ to incorporate the above analysis and current performance, EPA is establishing an effluent limitation of 1,100 mg/l.

The objective for TDS is an annual mean values; therefore, limits have been applied on an annual average basis.

Oil & Grease

EPA considers Oil & Grease as a conventional pollutant pursuant to 304(a)(4) of the CWA and 40 CFR 401.16. The Basin Plan indicates that waters shall not contain oils, greases, waxes, or other similar materials in concentrations that result in a visible film or coating on the surface of the water or on objects in the water that cause nuisance, or that otherwise adversely affect beneficial uses. Data has demonstrated that oil & grease has the reasonable potential to be present in the applicant's effluent. Therefore, EPA is setting effluent limitations consistent with similar permits for secondary treatment facilities of 15 mg/l maximum daily and 10 mg/l average monthly.

Nitrate

Nitrate limitations of 5 mg/l average monthly and 7.5 mg/l max daily have been carried over from the previous permit.

Phosphorus

No limit has been set at this time. Quarterly monitoring is required.

D. Anti-Backsliding

Section 402(o) of the CWA prohibits the renewal or reissuance of an NPDES permit that contains effluent limits less stringent than those established in the previous permit, except as provided in the statute. The permit does not establish any effluent limits less stringent than those in the previous permit and does not allow backsliding.

E. Antidegradation Policy

EPA's antidegradation policy at 40 CFR 131.12 and the Central Coast Basin Plan require that existing water uses and the level of water quality necessary to protect the existing uses be maintained.

As described in this document, the permit establishes effluent limits and monitoring requirements to ensure that all applicable water quality standards are met. A priority pollutant scan has been conducted of the effluent, demonstrating that most pollutants will be discharged

below detection levels. The permit also does not establish any effluent limits less stringent than those in the previous permit and does not allow backsliding.

Therefore, due to the low levels of toxic pollutants present in the effluent, high level of treatment being obtained, and water quality-based effluent limitations, the discharge is not expected to adversely affect receiving water bodies or result in any degradation of water quality.

VII. NARRATIVE WATER QUALITY-BASED EFFLUENT LIMITS

The Central Coast Basin Plan contains narrative water quality standards applicable to the receiving water. Therefore, the permit incorporates applicable narrative water quality standards.

VIII. MONITORING AND REPORTING REQUIREMENTS

The permit requires the permittee to conduct monitoring for all pollutants or parameters where effluent limits have been established, at the minimum frequency specified. Additionally, where effluent concentrations of toxic parameters are unknown or where data are insufficient to determine reasonable potential, monitoring may be required for pollutants or parameters where effluent limits have not been established.

A. Effluent Monitoring and Reporting

The permittee shall conduct effluent monitoring to evaluate compliance with the proposed permit conditions. The permittee shall perform all monitoring, sampling and analyses in accordance with the methods described in the most recent edition of 40 CFR 136, unless otherwise specified in the proposed permit. All monitoring data shall be reported on monthly DMR forms and submitted quarterly as specified in the proposed permit.

B. Priority Toxic Pollutants Scan

A Priority Toxic Pollutants scan shall be conducted during the fourth year of the five-year permit term to ensure that the discharge does not contain toxic pollutants in concentrations that may cause a violation of water quality standards. The permittee shall perform all effluent sampling and analyses for the priority pollutants scan in accordance with the methods described in the most recent edition of 40 CFR 136, unless otherwise specified in the proposed permit or by EPA. 40 CFR 131.36 provides a complete list of Priority Toxic Pollutants.

C. Whole Effluent Toxicity Testing

The permit establishes tests for chronic toxicity. Chronic toxicity testing evaluates reduced growth/reproduction at 100 percent effluent. Chronic toxicity is to be reported based on the Test of Significant Toxicity ("TST").

D. Receiving Water Monitoring

The permit includes receiving water monitoring for all 303(d)-listed pollutants. The purpose of the monitoring is to ensure the discharge does not negatively impact water quality and to inform future effluent limitation calculations.

IX. SPECIAL CONDITIONS

A. Biosolids

The facility produces 26.5 dry metric tons of sewage sludge per year. Sludge is shipped offsite to Engel & Gray Inc. in Santa Maria, CA. The receiver achieves class A pathogen reduction using aerobic processes plus raised temperature.

Standard requirements for the monitoring, reporting, recordkeeping, and handling of biosolids in accordance with 40 CFR Part 503 are incorporated into the permit.

B. Pretreatment

There are no industrial facilities discharging to the WWTP. EPA has not incorporated any pretreatment requirements into this permit.

C. Capacity Attainment and Planning

The permit requires that a written report be filed within ninety (90) days if the average dry-weather wastewater treatment flow for any month exceeds 90 percent of the annual dry weather design capacity of the waste treatment and/or disposal facilities.

D. Development of an Initial Investigation TRE Workplan for Whole Effluent Toxicity

In the event effluent toxicity is triggered from WET test results, the permit requires the permittee to develop and implement a Toxics Reduction Evaluation (TRE) Workplan. Unacceptable effluent toxicity is found when “Fail” is determined, as indicated by a statistically significant difference between a test sample of 100 percent effluent and a control using a t-test. The draft permit also requires additional toxicity testing if a chronic toxicity monitoring trigger is exceeded. Within 90 days of the permit effective date, the permittee shall prepare and submit a copy of their Initial Investigation TRE Workplan (1-2 pages) for chronic toxicity to EPA for review.

X. OTHER CONSIDERATIONS UNDER FEDERAL LAW

A. Impact to Threatened and Endangered Species

Section 7 of the Endangered Species Act of 1973 (16 U.S.C. § 1536) requires federal agencies to ensure that any action authorized, funded, or carried out by the federal agency does not jeopardize the continued existence of a listed or candidate species, or result in the destruction or adverse modification of its habitat.

EPA consulted U.S. Fish & Wildlife Service’s (“USFWS”) Information, Planning, and Conservation System to generate a list of endangered species in the vicinity of the discharge. The following threatened or endangered species are believed to potentially be present in the vicinity of the discharge:

Species	Scientific Name	Class	Status
California Red-Legged Frog	<i>Rana draytonii</i>	Amphibian	Threatened
Least Bell’s Vireo	<i>Vireo bellii pusillus</i>	Bird	Endangered
Southwestern Willow Flycatcher	<i>Empidonax traillii extimus</i>	Bird	Endangered

Vernal Pool Fairy Shrimp	<i>Branchinecta lynchi</i>	Crustacean	Endangered
Gambel's Watercress	<i>Rorippa gambellii</i>	Flowering Plant	Endangered
Marsh Sandwort	<i>Arenaria paludicola</i>	Flowering Plant	Endangered

Although critical habitat for the California Red-Legged frog includes portions of the upper Santa Ynez River, the Zanja de Cota Creek and lower Santa Ynez Creek (below Lake Cachuma) are not included as part of the species' critical habitat. Additionally, three studies by the Chumash Environmental Office, conducted in 2000, 2003 and 2008/2009 all indicated the complete absence of the California Red-Legged Frog from the east and west forks of the Zanja de Cota Creek. These studies were conducted in accordance with the standard methods used for a protocol level study according to the United States Fish and Wildlife Service guidance. Therefore, the California Red-Legged frog is not believed to be present in the Zanja de Cota Creek, beyond speculative incidental contact.

Critical habitat for the vireo does not extend to the lower Santa Ynez River, while critical habitat for the flycatcher begins near Buellton, approximately 5 miles downstream of the Zanja de Cota Creek's confluence with the Santa Ynez River. The Least Bell's vireo and Southwestern Willow flycatcher are not believed to be present in the Zanja de Cota Creek, beyond speculative incidental contact.

The effluent from the discharger into Zanja de Cota Creek does not have any nexus with regional vernal pools. Therefore, the Vernal Pool fairy shrimp is not believed to be impacted by the discharge.

The two plant species are found exclusively in freshwater marshes and occasionally brackish marshes. Therefore, the Gambel's watercress and Marsh Sandwort are not believed to be present in the freshwater Zanja de Cota Creek.

The permit authorizes the discharge of tertiary treated sanitary wastewater into Zanja de Cota Creek which, as outlined above, is not habitat for the aforementioned threatened and endangered species. The draft permit contains provisions for monitoring conventional pollutants, toxic chemicals, and nonconventional pollutants, in compliance with Federal requirements and California Water Quality Standards. Requirements are written to ensure an appropriate level of effluent quality that is protective of beneficial uses of the Creek, including wildlife, as well as rare, threatened, and endangered species habitat.

In considering all the information available, EPA believes that the discharge will have "no effect" on any of these listed species. EPA has forwarded a copy of the biological analysis, draft permit, and this fact sheet to USFWS for review and comment.

B. Impact to Coastal Zones

The Coastal Zone Management Act (CZMA) requires that Federal activities and licenses, including Federally permitted activities, must be consistent with an approved state Coastal Management Plan (CZMA Sections 307(c)(1) through (3)). Section 307(c) of the CZMA and implementing regulations at 40 CFR 930 prohibit EPA from issuing a permit for an activity affecting land or water use in the coastal zone until the applicant certifies that the proposed activity complies with the State (or Territory) Coastal Zone Management program, and the State (or Territory) or its designated agency concurs with the certification.

The proposed permit does not affect land or water use in the coastal zone.

C. Impact to Essential Fish Habitat

The 1996 amendments to the Magnuson-Stevens Fishery Management and Conservation Act (MSA) set forth a number of new mandates for the National Marine Fisheries Service, regional fishery management councils and other federal agencies to identify and protect important marine and anadromous fish species and habitat. The MSA requires Federal agencies to make a determination on Federal actions that may adversely impact Essential Fish Habitat (EFH).

The proposed permit contains technology-based effluent limits and numerical and narrative water quality-based effluent limits as necessary for the protection of applicable aquatic life uses. The proposed permit does not directly discharge to areas of essential fish habitat. Therefore, EPA has determined that the proposed permit will not adversely affect essential fish habitat.

D. Impact to National Historic Properties

Section 106 of the National Historic Preservation Act (NHPA) requires federal agencies to consider the effect of their undertakings on historic properties that are either listed on, or eligible for listing on, the National Register of Historic Places. Pursuant to the NHPA and 36 CFR §800.3(a)(1), EPA is making a determination that issuing this proposed NPDES permit does not have the potential to affect any historic properties or cultural properties. As a result, Section 106 does not require EPA to undertake additional consulting on this permit issuance.

XI. STANDARD CONDITIONS

A. Reopener Provision

In accordance with 40 CFR 122 and 124, this permit may be modified by EPA to include effluent limits, monitoring, or other conditions to implement new regulations, including EPA-approved water quality standards; or to address new information indicating the presence of effluent toxicity or the reasonable potential for the discharge to cause or contribute to exceedances of water quality standards.

B. Standard Provisions

The permit requires the permittee to comply with EPA Region IX Standard Federal NPDES Permit Conditions, dated July 1, 2001.

XII. ADMINISTRATIVE INFORMATION

A. Public Notice (40 CFR 124.10)

The public notice is the vehicle for informing all interested parties and members of the general public of the contents of a draft NPDES permit or other significant action with respect to an NPDES permit or application.

B. Public Comment Period (40 CFR 124.10)

Notice of the draft permit will be placed in a daily or weekly newspaper within the area affected by the facility or activity, with a minimum of 30 days provided for interested parties to respond in writing to EPA. After the closing of the public comment period, EPA is required to

respond to all significant comments at the time a final permit decision is reached or at the same time a final permit is actually issued.

C. Public Hearing (40 CFR 124.12(c))

A public hearing may be requested in writing by any interested party. The request should state the nature of the issues proposed to be raised during the hearing. A public hearing will be held if EPA determines there is a significant amount of interest expressed during the 30-day public comment period or when it is necessary to clarify the issues involved in the permit decision.

D. Water Quality Certification Requirements (40 CFR 124.53 and 124.54)

For States, Territories, or Tribes with EPA approved water quality standards, EPA is requesting certification from the affected State, Territory, or Tribe that the proposed permit will meet all applicable water quality standards. Certification under section 401 of the CWA shall be in writing and shall include the conditions necessary to assure compliance with referenced applicable provisions of sections 208(e), 301, 302, 303, 306, and 307 of the CWA and appropriate requirements of Territory law.

XIII. CONTACT INFORMATION

Comments, submittals, and additional information relating to this proposal may be directed to:

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415-972-3520
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EPA Region IX
75 Hawthorne Street (WTR-5)
San Francisco, California 94105

XIV. REFERENCES

- EPA. 1991. *Technical Support Document for Water Quality-based Toxics Control*. Office of Water, EPA. EPA/505/2-90-001.
- EPA. 1996. *Regions IX & X Guidance for Implementing Whole Effluent Toxicity Testing Programs*, Interim Final, May 31, 1996.
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