NPDES PERMIT NO. NM0029238
FACT SHEET

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

APPLICANT

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ISSUING OFFICE

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DATE PREPARED

September 22, 2017

PERMIT ACTION

Proposed reissuance of the current NPDES permit issued September 28, 2012, with an effective date of November 1, 2012, and an expiration date of October 31, 2017.

RECEIVING WATER – BASIN

Little Creek; thence to Eagle Creek; thence to Rio Ruidoso of the Pecos river Basin. The Little Creek is considered an intermittent waterbody with WQS reference of 20.6.4.98.

DOCUMENT ABBREVIATIONS

In the document that follows, various abbreviations are used. They are as follows:

4Q3	Lowest four-day average flow rate expected to occur once every three-years
BAT	Best available technology economically achievable
BCT	Best conventional pollutant control technology
BPT	Best practicable control technology currently available
BMP	Best management plan
BOD	Biochemical oxygen demand (five-day unless noted otherwise)
BPJ	Best professional judgment
CD	Critical dilution
CFR	Code of Federal Regulations
cfs	Cubic feet per second
COD	Chemical oxygen demand
COE	United States Corp of Engineers
CWA	Clean Water Act
DMR	Discharge monitoring report
ELG	Effluent limitation guidelines
EPA	United States Environmental Protection Agency
ESA	Endangered Species Act
FCB	Fecal coliform bacteria
F&WS	United States Fish and Wildlife Service
mg/l	Milligrams per liter (one part per million)
ug/l	Micrograms per litter (one part per billion)
MGD	Million gallons per day
NMAC	New Mexico Administrative Code
NMED	New Mexico Environment Department
NMIP	New Mexico NPDES Permit Implementation Procedures
NMWQS	New Mexico State Standards for Interstate and Intrastate Surface Waters
NPDES	National Pollutant Discharge Elimination System
MQL	Minimum quantification level
O&G	Oil and grease
POTW	Publically owned treatment works
RP	Reasonable potential
SIC	Standard industrial classification
s.u.	Standard units (for parameter pH)
SWQB	Surface Water Quality Bureau
TDS	Total dissolved solids
TMDL	Total maximum daily load
TRC	Total residual chlorine
TSS	Total suspended solids
UAA	Use attainability analysis
UV	Ultraviolet light
USFWS	United States Fish & Wildlife Service
USGS	United States Geological Service
WLA	Wasteload allocation
WET	Whole effluent toxicity
WQCC	New Mexico Water Quality Control Commission
WQMP	Water Quality Management Plan
WWTP	Wastewater treatment plant

I. CHANGES FROM THE PREVIOUS PERMIT

Changes from the permit previously issued September 28, 2012, with an effective date of November 1, 2012, and an expiration date of October 31, 2017, are:

A. Discharge Monitoring Report (DMR) results shall be electronically reported to EPA per 40 CFR 127.16.

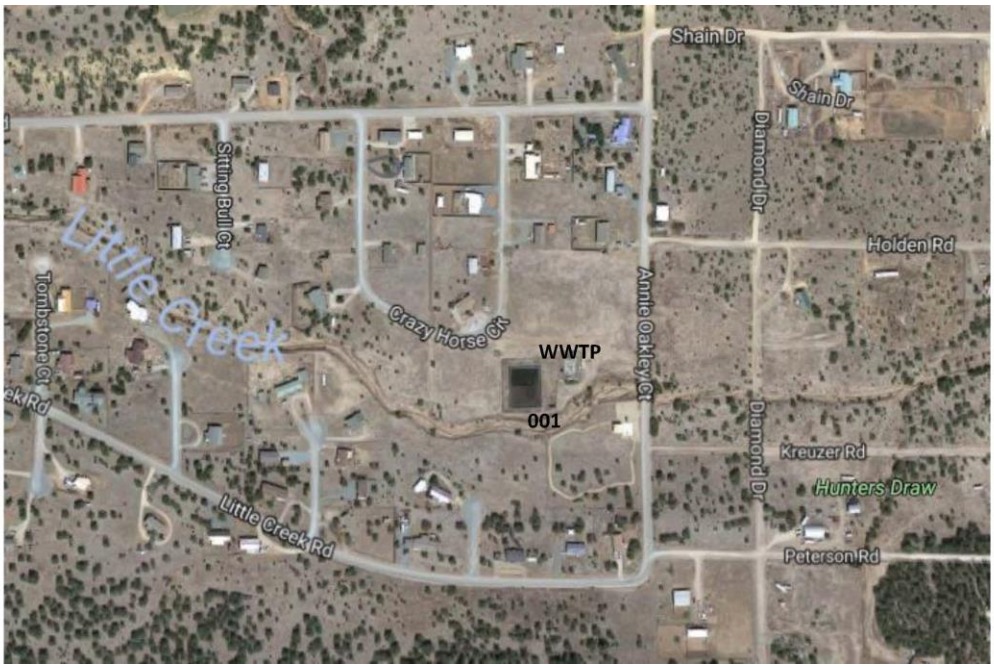
B. *E. coli* bacteria and TSS measurement frequency changed to twice/month.

II. APPLICANT LOCATION and ACTIVITY

As described in the application, the wastewater treatment plant is located eight miles north-northeast of the City of Ruidoso in Lincoln County, New Mexico. The effluent from the treatment plant is discharged into the Little Creek; thence to Eagle Creek; thence to Rio Ruidoso in Segment 20.6.4.208 of the Pecos River Basin. The discharge is located at latitude 33° 25' 22" N, longitude 105° 34' 27.5" W.

Under the Standard Industrial Classification (SIC) Code 4952, the applicant currently operates an extended aeration activated sludge process with a plant flow design of 0.04 MGD. The treatment consists of seven aeration tanks, one denitrification tank, one re-aeration tank, two final clarifiers, a chlorine contact chamber, three bag filters, and a UV disinfection unit with chlorination as back-up. Additionally, the facility utilizes a lined evaporation pond which also serves as a polishing and holding pond. Effluent from the plant contact chamber is routed through the pond before it's filtered, metered, and disinfected.

CDS Rainmakers WWTP



III. EFFLUENT CHARACTERISTICS

A quantitative description of the discharge(s) described in the EPA Permit Application Form 2A received January 31, 2017, are presented below:

POLLUTANT TABLE #1

PARAMETER	Max	Avg.
Flow, million gallons/day (MGD)	0.04	0.03
Temperature, winter, °C	10.4	8.9
Temperature, summer, °C	24.1	22.3
pH, minimum, standard units (su)	N/A	6.6 min
pH, maximum, standard units (su)	N/A	9.0 max
Biochemical Oxygen Demand, 5-day (BOD_5), mg/L	30	10
Fecal Coliform (cfu/100mL)	940	206
Total Suspended Solids (TSS), mg/L	30	10

A summary of the last 3-years of pollutant data taken from DMRs shows many exceedances of pollutant limits.

Pollutant/Limit	Month/Year of Exceedances - Value
E. coli/avg - 206 cfu/100 ml	Mar/2016 - 315, Nov/2016 – 1,218, Dec/2016 – 1,234
E. coli/max – 940 cfu/100 ml	Nov/2016 – 1,217
TSS/30-avg – 30 mg/l	Feb/2015 – 53, Apr/2015 – 33, Jul/ 2015 - 39
TSS/7-avg – 45 mg/l	Feb/2015 - 53
TSS/30-avg – 10 lbs/day	Apr/2014 – 30, Jul/2015 - 12
TSS/7-avg – 15 lbs/day	Apr/2014 - 30
TSS % removal – 85% minimum	May/2014 – 84.6%, Feb/2015 – 67.2%, Apr/2015 – 84.5%

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 reissued for a 5-year term following regulations promulgated at 40 CFR §122.46(a). The previous permit will expire October 31, 2017. The application was received on January 31, 2017. The existing permit is administratively continued until this permit is issued.

V. DRAFT PERMIT RATIONALE AND PROPOSED PERMIT CONDITIONS

A. OVERVIEW of TECHNOLOGY-BASED VERSUS WATER QUALITY STANDARDS-BASED EFFLUENT LIMITATIONS AND CONDITIONS

Regulations contained in 40 CFR §122.44 require that NPDES permit limits are developed that meet the more stringent of either technology-based effluent limitation guidelines, numerical and/or narrative water quality standard-based effluent limits, or the previous permit.

Technology-based effluent limitations are established in the proposed draft permit for TSS and BOD_5. Water quality-based effluent limitations are established in the proposed draft permit for TRC, pH and *E. coli* bacteria.

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 facility is a POTW's that has technology-based ELG's established at 40 CFR Part 133, Secondary Treatment Regulation. Pollutants with ELG's established in this Chapter are BOD, TSS and percent removal for each. BOD limits of 30 mg/l for the 30-day average, 45 mg/l for

the 7-day average and 85% (minimum) removal are found at 40 CFR §133.102(a). TSS limits of 30 mg/l for the 30-day average, 45 mg/l for the 7-day average and 85% (minimum) removal are found at 40 CFR §133.102(b). ELGs for pH are between 6-9 s.u. are found at 40 CFR §133.102(c).

Regulations at 40 CFR §122.45(f)(l) require all pollutants limited in permits to have limits expressed in terms of mass such as pounds per day. When determining mass limits for POTW's, the plant's design flow is used to establish the mass load. Mass limits are determined by the following mathematical relationship:

Loading in lbs/day = pollutant concentration in mg/l * 8.345 lbs/gal * design flow in MGD
30-day average BOD/TSS loading = 30 mg/l * 8.345 lbs/gal * 0.04 MGD
30-day average BOD/TSS loading = 10 lbs/day

7-day average BOD/TSS loading = 45 mg/l * 8.345 lbs/gal * 0.04 MGD
7-day average BOD/TSS loading = 15 lbs/day

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

Final Effluent Limits – 0.04 MGD design flow.

EFFLUENT CHARACTERISTICS	**DISCHARGE LIMITATIONS**			
	lbs/Day		mg/l (unless noted)	
Parameter	30-Day Avg.	7-Day Avg.	30-Day Avg.	7-Day Avg.
Flow	N/A	N/A	Measure MGD	Measure MGD
BOD_5	10	15	30	45
TSS	10	15	30	45
BOD_5 & TSS, % removal minimum	$\geq$ 85% (*)	N/A	N/A	N/A
pH	N/A	N/A	6.0 – 9.0 standard units	

(*) Percent removal is calculated using the following equation: [(average monthly influent concentration – average monthly effluent concentration) / average monthly influent concentration] x 100

C. WATER QUALITY BASED LIMITATIONS

1. General Comments

Water quality based requirements are necessary where effluent limits more stringent than technology-based limits are necessary to maintain or achieve federal or state water quality limits. Under Section 301(b)(1)(C) of the CWA, discharges are subject to effluent limitations based on federal or state 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. Final Effluent Limits – 0.04 MGD

Table 2

EFFLUENT CHARACTERISTICS	**DISCHARGE LIMITATIONS**						**MONITORING REQUIREMENTS**	
	lbs/day, unless noted			**mg/L, unless noted**				
POLLUTANT	30-DAY AVG	DAILY MAX	7-DAY AVG	30-DAY AVG	DAILY MAX	7-DAY AVG	MEASUREMENT FREQUENCY	SAMPLE TYPE
Flow	Report MGD	Report MGD	Report MGD	***	***	***	Daily	Inst. Grab
Biochemical Oxygen Demand, 5-day	10	N/A	15	30	N/A	45	Once/Month (*1)	Grab
BOD_5 % removal (minimum)	≥ 85 %	N/A	N/A	N/A	N/A	N/A	Once/Month	Calculation (*6)
Total Suspended Solids (TSS)	10	N/A	15	30	N/A	45	Twice/Month (*1)	Grab
TSS % removal (minimum)	≥ 85 %	N/A	N/A	N/A	N/A	N/A	Twice/Month	Calculation (*6)
E. Coli Bacteria	N/A	N/A	N/A	206 (*2)	940 (*2)	N/A	Twice/Month	Grab
Total Residual Chlorine	N/A	N/A	N/A	N/A	11 µg/l	N/A	Five/Week	Instantaneous Grab (*3)

Table 3

EFFLUENT CHARACTERISTICS		**DISCHARGE LIMITATIONS**		**MONITORING REQUIREMENTS**	
		Standard Units			
POLLUTANT	STORET CODE	MINIMUM	MAXIMUM	MEASUREMENT FREQUENCY	SAMPLE TYPE
pH (*4)	00400	6.6	9.0	Five/Week	Instantaneous Grab (*3)

Table 4

EFFLUENT CHARACTERISTICS	**DISCHARGE MONITORING**	**MONITORING REQUIREMENTS**	
WHOLE EFFLUENT TOXICITY (7-day Static renewal) (*5)	NOEC	MEASUREMENT FREQUENCY	SAMPLE TYPE
Pimephales promelas	Report	Once/Term	24-Hr Composite
Ceriodaphnia dubia	Report	Once/Term	24-Hr Composite

Footnotes:

*1 See Appendix A or Part II of the permit for minimum quantification limits.

*2 Colony forming units (cfu) per 100 ml.

*3 Regulations at 40 CFR Part 136 define "instantaneous grab" as analyzed within 15 minutes of collection. The effluent limitation for TRC is the instantaneous maximum and cannot be averaged for reporting purposes.

*4 Daily minimum. Instantaneous grab samples are to be taken between the times of 10:00 am-2:00 pm.

*5 See PART II, Whole Effluent Toxicity testing requirements for additional WET monitoring and reporting conditions.

*6 Percent removal is calculated using the following equation: (average monthly influent concentration – average monthly effluent concentration) / average monthly influent concentration.

4. State Water Quality Standards

The general and specific stream standards are provided in NMWQS (20.6.4 NMAC, approved June 8, 2017. The facility discharges into the Little Creek; thence to Eagle Creek; thence to Rio Ruidoso in Segment 20.6.4.208 of the Pecos River Basin. The Little Creek is an intermittent waterbody with WQS reference of 20.6.4.98. The designated uses of the receiving water are livestock watering, wildlife habitat, marginal warmwater aquatic life and primary contact.

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. Bacteria

New Mexico stream segment 20.6.4.98 intermittent waters WQS require *E. coli* bacteria 206 cfu/100mL monthly geometric mean and 940 cfu/100ml daily maximum will continue in this permit.

b. pH

The draft permit shall continue with 6.6 and 9.0 s.u. for pH based on the State's WQS, based on the designated aquatic life use for unclassified intermittent waters (20.6.4.98 NMAC) marginal warmwater aquatic life.

c. Toxics

i. General Comments

The CWA in Section 301 (b) requires that effluent limitations for point sources include any limitations necessary to meet water quality standards. Federal regulations found at 40 CFR §122.44 (d) state that if a discharge poses the reasonable potential to cause an in-stream excursion above a water quality criteria, the permit must contain an effluent limit for that pollutant.

All applicable facilities are required to fill out appropriate sections of the Form 2A, 2S or 2E, to apply for an NPDES permit or reissuance of an NPDES permit. The facility is designated as a minor, and does not need to fill out the expanded pollutant testing section Part D of Form 2A.

ii. Critical Conditions

Critical conditions are used to establish certain permit limitations and conditions. The State of New Mexico WQS allow a mixing zone for establishing pollutant limits in discharges. Both states establish a critical low flow designated as 4Q3, as the minimum average four consecutive day flow which occurs with a frequency of once in three years. NMED SWQB has not assessed the unclassified Little Creek. The receiving water is considered intermittent probably due to the facility's batch wastewater discharge. Therefore, there is not a calculated 4Q3 and a harmonic mean low flow for the facility. For this case the critical dilution is 100% according to the NMIP and no DO model was generated.

iii. TRC

The facility uses chlorine as a back-up to control bacteria. The draft permit shall maintain the 11ug/l limit contained in the present permit.

d. TMDL Parameters

Little Creek enters Eagle Creek and flows into Rio Ruidoso before the confluence at Rio Bonito, above Rio Hondo. Eagle Creek (Rio Ruidoso to Alto Lake) is included in the 2014-2016 Integrated Report, minimal water aquatic life and primary contact are "fully supporting". Livestock watering and wildlife habitat have not been assessed, no TMDL has been prepared for this segment.

Downstream in Rio Ruidoso (Eagle Creek to US Hwy 70 Bridge) segment 20.6.5.208 NMAC, is included in the 2014-2016 Integrated Report. For this assessment unit NM-2208_20, coldwater aquatic life is listed as "not supporting"; primary contact is listed as "not supporting"; and wildlife habitat, livestock watering and irrigation as "fully supporting". The listed probable causes for impairment is nutrient/eutrophication, turbidity and *E. coli*. The listed probable sources are municipal point source discharges, on-site treatment systems (septics), sources unknown, rangeland grazing and flow alterations from water diversions. Total Maximum Daily

Load (TMDL) prepared for plant nutrients (TN and TP) was approved by U.S. EPA in 2016 and TMDL for E. coli in 2015. This TMDL is not applicable to the facility's discharge.

D. MONITORING FREQUENCY FOR LIMITED PARAMETERS

Regulations require permits to establish monitoring requirements to yield data representative of the monitored activity, 40 CFR §122.48(b), and to assure compliance with permit limitations, 40 CFR §122.44(i)(1). Sample frequency is based on the NMIP. Technology based pollutants; BOD and TSS are proposed to be monitored one time per month and twice per month respectively. Flow is proposed to be monitored daily instantaneous grab. These frequencies are the same as the current permit. Sample type for BOD and TSS are grab which is consistent with the previous permit.

Water quality-based pollutant monitoring frequency for *E. coli* shall be twice per month by grab sample which was suggested by NMED because of the highly variable discharge. TRC and pH shall be monitored five (5) days per week, using instantaneous grab samples. Regulations at 40 CFR §136 define instantaneous grab as being analyzed within 15-minutes of collection. All of these monitoring frequencies are consistent with the NMIP.

E. WHOLE EFFLUENT TOXICITY LIMITATIONS

In Section V.C.4.c.(ii) above; "Critical Conditions", it was shown that the critical dilution, CD, for the facility is 100% because the discharge is to an intermittent water body. Based on the nature of the discharge; POTW, the design flow; less than 0.1MGD, the nature of the receiving water; intermittent, and the critical dilution; 100% the NMIP directs the WET test to be a 7-day chronic test using *Ceriodaphnia dubia* and *Pimephales promelas* at a once per permit term frequency consistent with the NMIP. The test series will be 0% (control), 32%, 42%, 56%, 75%, and 100%.

Data from the previous permit cycles indicates the facility passed the one/term chronic WET test requirement with a NOEC of 100% for both species. There is no reasonable potential for this facility to exceed the narrative criteria for WET in the Water Quality Standards and no limit is needed. Monitoring will remain the condition for this permit.

Effluent Characteristics	**Discharge Monitoring**	**Monitoring Requirements**	
WET Testing (7-day Static Renewal)	NOEC	Measurement Frequency	Sample Type
Ceriodaphnia dubia	Report	Once/Term	24-Hr. Composite
Pimephales promelas	Report	Once/Term	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.

VI. FACILITY OPERATIONAL PRACTICES

A. SEWAGE SLUDGE

The sludge that is generated by the clarifiers and digesters is pumped as needed and disposed of at a privately owned disposal site. The facility uses a biological treatment additive in the treatment system to help liquefy solids, increase overall treatment efficiency, and reduce sludge accumulation. Part IV of the draft permit contains sewage sludge permit requirements.

B. 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.

C. INDUSTRIAL WASTEWATER CONTRIBUTIONS

The treatment plant has no non-categorical Significant Industrial User's (SIU) and no Categorical Industrial User's (CIU). The EPA has tentatively determined that the permittee will not be required to develop a full pretreatment program. However, general pretreatment provisions have been required. The facility is required to report to EPA, in terms of character and volume of pollutants any significant indirect dischargers into the POTW subject to pretreatment standards under §307(b) of the CWA and 40 CFR Part 403.

D. OPERATION AND REPORTING

The applicant is required to operate the treatment facility at maximum efficiency at all times; to monitor the facility's discharge on a regular basis; and report the results quarterly. The monitoring results will be available to the public.

VII. 303(d) LIST

Little Creek enters Eagle Creek and then flows into Rio Ruidoso before the confluence at Rio Bonito, above Rio Hondo. Eagle Creek (Rio Ruidoso to Alto Lake) is included in the 2014-2016 Integrated Report, minimal water aquatic life and primary contact are "fully supporting". Livestock watering and wildlife habitat have not been assessed. Rio Ruidoso (Rio Bonito to US Hwy 70 Bridge) in Segment 20.6.5.208 NMAC, is included in the 2014-2016 Integrated Report. For this assessment unit NM-2208_20 of Rio Ruidoso, coldwater aquatic life is listed as "not supporting"; primary contact is listed as "not supporting"; and wildlife habitat, livestock watering and irrigation was "fully supporting". The listed probable causes for impairment is nutrient/eutrophication, turbidity and *E. coli*. The listed probable sources are municipal point source discharges, on-site treatment systems (septics), sources unknown, rangeland grazing and flow alterations from water diversions. Total Maximum Daily Load (TMDL) prepared for plant nutrients (TN and TP) was approved by U.S. EPA in 2006 and TMDL for E. coli in 2015. There is not a Waste Load Allocation (WLA) assigned to the facility.

VIII. ANTIDEGRADATION

The NMAC, Section 20.6.4.8 "Antidegradation Policy and Implementation Plan" sets forth the requirements to protect designated uses through implementation of the State water quality standards. The limitations and monitoring requirements set forth in the proposed permit are developed from the State water quality standards and are protective of those designated uses. Furthermore, the policy sets forth the intent to protect the existing quality of those waters, whose quality exceeds their designated use. The permit requirements and the limits are protective of the assimilative capacity of the receiving waters, which is protective of the designated uses of that water, NMAC Section 20.6.4.8.A.2.

IX. ANTIBACKSLIDING

The proposed permit is consistent with the requirements to meet antibacksliding provisions of the Clean Water Act, Section 402(o) and 40 CFR §122.44(l)(i)(A), which state in part that interim or final effluent limitations must be as stringent as those in the previous permit, unless material and substantial alterations or additions to the permitted facility occurred after permit issuance which justify the application of a less stringent effluent limitation. The proposed permit maintains the mass loading requirements and limits of the previous permit.

X. ENDANGERED SPECIES CONSIDERATIONS

According to the most recent county listing available at USFWS, Southwest Region 2 website, http://ifw2es.fws.gov/EndangeredSpecies/lists/, two species in Lincoln County are listed as Endangered or Threatened. One of the species is avian, the Mexican spotted owl, and the other listed species is one flowering plant, the Kuenzler hedgehog cactus.

In accordance with requirements under section 7(a)(2) of the Endangered Species Act, EPA has reviewed this permit for its effect on listed threatened and endangered species and designated critical habitat. After review, EPA has determined that the reissuance of this permit will have "*no effect*" on listed threatened and endangered species nor will adversely modify designated critical habitat. EPA makes this determination based on the following:

1. In the previous permit issued September 21, 2011, EPA made a "no effect" determination for federally listed species. EPA has received no additional information since then which would lead to a revision of that "no effect" determination. EPA determines that this reissuance will not change the environmental baseline established by the previous permit, and therefore, EPA concludes that reissuance of this permit will have "no effect" on the listed species and designated critical habitat.

2. No additions have been made to the USFWS list of threatened and endangered species and critical habitat designation in the area of the discharge since prior issuance of the permit.

3. EPA has received no additional information since the previous permit issuance which would lead to revision of its determinations.

4. The draft permit is no less restrictive from the previous permit.

5. EPA determines that Items 1, thru 4 result in no change to the environmental baseline established by the previous permit, therefore, EPA concludes that reissuance of this permit will have "no effect" on listed species and designated critical habitat.

XI. HISTORICAL and ARCHEOLOGICAL PRESERVATION CONSIDERATIONS

The reissuance of the permit should have no impact on historical and/or archeological sites since no construction activities are planned in the reissuance.

XII. EVIRONMENTAL JUSTICE

Executive Order 12898, *Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations*, directs each federal agency to "make achieving environmental justice part of its mission by identifying and addressing, as appropriate, disproportionately high and adverse human health or environmental effects of its programs, policies, and activities." The EPA strives to enhance the ability of overburdened communities to participate fully and meaningfully in the permitting process for EPA-issued permits, including NPDES permits. "Overburdened" communities can include minority, low-income, tribal, and indigenous populations or communities that potentially experience disproportionate environmental harms and risks. As part of an agency-wide effort, the EPA Region 6 will consider prioritizing enhanced public involvement opportunities for EPA-issued permits that may involve activities with significant public health or environmental impacts on already overburdened communities. For more information, please visit http://www.epa.gov/compliance/ej/plan-ej/ .

As part of the Permit development process, the EPA conducted a screening analysis to determine whether this Permit action could affect overburdened communities. The EPA used a nationally consistent geospatial tool that contains demographic and environmental data for the United States at the Census block group level. This tool is used to identify Permits for which enhanced outreach may be warranted.

The EJ Screen score for the facility was at the 60th percentile (60%ile), and this is below the 80%ile cut-off for engaging in enhanced outreach around the availability of the Draft Permit for review and comment. Therefore, the CDS Rainmakers Utilities, LLC is not considered to be discharging in an EJ community and no enhanced outreach is necessary.

XIII. PERMIT REOPENER

The permit may be reopened and modified during the life of the permit if State Water Quality Standards are promulgated or revised. In addition, if the State amends a TMDL, this permit may be reopened to establish effluent limitations for the parameter(s) to be consistent with that TMDL. Modification of the permit is subject to the provisions of 40 CFR §124.5.

XIV. VARIANCE REQUESTS

No variance requests have been received.

XV. CERTIFICATION

The permit is in the process of certification by the State Agency following regulations promulgated at 40 CFR 124.53. A draft permit and draft public notice will be sent to the District Engineer, Corps of Engineers; to the Regional Director of the U.S. Fish and Wildlife Service and to the National Marine Fisheries Service prior to the publication of that notice.

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(s)

EPA Application Form 2A received January 2017.

B. 40 CFR CITATIONS

Citations to 40 CFR are as of September 22, 2017.
Sections 122, 124, 125, 133, 136

C. STATE OF NEW MEXICO REFERENCES

New Mexico State Standards for Interstate and Intrastate Surface Water, 20.6.4 NMAC, as amended through June 8, 2017.

Procedures for Implementing National Pollutant Discharge Elimination System Permits in New Mexico, March 15, 2012

State of New Mexico 303(d) List for Assessed Stream and River Reaches, 2016-2018.