NPDES PERMIT NO. NM0024163
FACT SHEET

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

APPLICANT

Village of Reserve
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ISSUING OFFICE

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DATE PREPARED

December 1, 2018

PERMIT ACTION

Renewal of a permit previously issued on August 14, 2013 with an effective date of September 1, 2013, and an expiration date of August 31, 2018.

RECEIVING WATER – BASIN

Christensen Arroyo (Intermittent Steam) thence to San Francisco River Basin

DOCUMENT ABBREVIATIONS

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

4Q3	Lowest four-day average flow rate expected to occur once every three-years
BAT	Best available technology economically achievable
BCT	Best conventional pollutant control technology
BPT	Best practicable control technology currently available
BMP	Best management plan
BOD	Biochemical oxygen demand (five-day unless noted otherwise)
BPJ	Best professional judgment
CBOD	Carbonaceous biochemical oxygen demand (five-day unless noted otherwise)
CD	Critical dilution
CFR	Code of Federal Regulations
cfs	Cubic feet per second
COD	Chemical oxygen demand
COE	United States Corp of Engineers
CWA	Clean Water Act
DMR	Discharge monitoring report
DO	Dissolved oxygen
ELG	Effluent limitation guidelines
EPA	United States Environmental Protection Agency
ESA	Endangered Species Act
FWS	United States Fish and Wildlife Service
mg/l	Milligrams per liter
ug/l	Micrograms per liter
lbs	Pounds
MG	Million gallons
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
SS	Settleable solids
SIC	Standard industrial classification
s.u.	Standard units (for parameter pH)
SWQB	Surface Water Quality Bureau
TDS	Total dissolved solids
TMDL	Total maximum daily load
TRC	Total residual chlorine
TSS	Total suspended solids
UAA	Use attainability analysis
USGS	United States Geological Service
WLA	Waste Load 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 on August 14, 2013, with an effective date of September 1, 2013, and an expiration date of August 31, 2018, are as follow:

- E. Coli TMDL has been added. E. Coli loading limit has been updated to 3.58 x 10^8 cfu/day. 30-day average has been updated to 126 cfu/100 ml and daily max has been updated to 410 cfu/100 ml.
- WET monitoring requirements have been updated to once every two years.
- Electronic DMR reporting requirements have been included in the modified permit.
- Language on the Sufficiently Sensitive Methods has been established in the proposed permit.
- Language on industrial wastewater contributions has been added to the proposed permit.

II. APPLICANT LOCATION and ACTIVITY

As described in the application, the facility (Latitude 33° 42' 12" N and Longitude 108° 45' 27" W) is located at 101 Plant Street, Village of Reserve, Catron County, New Mexico.

Under the SIC code 4952, the applicant operates a publicly owned WWTP, which has a design flow of 0.075 MGD providing sanitary services for approximately 289 residents. The WWTP primarily consists of lift station, anoxic basin, aeration basin, clarifiers, chlorination chamber and sludge drying beds. The effluent is disinfected chlorine and then de-chlorinated before discharged to Christensen arroyo, thence to San Francisco River. A mechanical screen and UV disinfection system are in the process of being installed. Sludge is dried and stabilized before given away.

III. EFFLUENT CHARACTERISTICS

Data submitted in Form 2A is as follows:

Parameter	Max (mg/l unless noted)	Avg (mg/l unless noted)
Flow (MGD)	0.04	0.02
Temperature, winter, °C	17.4	
Temperature, summer, °C	24.3	
pH, minimum, standard units (su)	6	N/A
pH, maximum, standard units (su)	9	N/A
Biochemical Oxygen Demand, 5-day (BOD_5)	5	3
Total Suspended Solids (TSS)	8	1
E. coli (cfu/100 ml)	1	1

A summary of the last 36- months of available pollutant data, taken from DMR's shows one instance on April 30, 2015 in which TSS removal was below minimum requirements prescribed in the permit. In addition there were two instances in which no DMR's were submitted (1/31/17 & 2/28/18), four instances in which TSS loading was not reported (6/30/15, 11/30/16, 12/31/16, & 1/31/18) and one instance in which BOD loading was not reported (6/30/15). In addition in reviewing the application it was determined that the applicant had not performed its required WET test. EPA requested that the

permittee have the WET test performed, results were received on August 22, 2018 and September 10, 2018.

Additionally, the permittee and an adjacent landowner came to a settlement agreement on May 24, 2016. In the agreement, the permittee agreed to evaluate potential options for transporting effluent from WWTP to the San Francisco River via an underground pipe, select the most desirable option with input from the adjacent landowner, no later than April 15, 2017 and complete any other required activities including final construction no later than December 31, 2018. In December 2016 a summary report evaluating the options of transport of effluent was finalized. The ground water discharge permit states that the permittee shall complete all requirements stipulated in the settlement agreement between The Village of Reserve and the adjacent landowner by October 21, 2019. The issue is currently in litigation, as the adjacent landowner and The Village of Reserve are in disagreement on the new outfall location. Thus it is not clear when the issue will be resolved and/or when the pipeline will be constructed to move the discharge location and satisfy the settlement agreement. If the location of the discharge changes during the period of this permit, the permittee shall submit information to the EPA and permit conditions set forth in this permit will be reevaluated based on new discharge location.

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 the NPDES permit program are generally found at 40 CFR §122 (program requirements & permit conditions), §124 (procedures for decision making), §125 (technology-based standards) and §136 (analytical procedures). Other parts of 40 CFR provide guidance for specific activities and may be used in this document as required.

The complete application was received on November 5, 2018. It is proposed that the permit be reissued for a 5-year term following regulations promulgated at 40 CFR §122.46(a).

V. DRAFT PERMIT RATIONALE AND PROPOSED PERMIT CONDITIONS

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

Regulations contained in 40 CFR §122.44 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, and percent removal for each. Water quality-based effluent limitations are established in the proposed draft permit for *E. coli* bacteria, pH and TRC.

B. TECHNOLOGY-BASED EFFLUENT LIMITATIONS/CONDITIONS

1. General Comments

Regulations promulgated at 40 CFR §122.44 (a) require technology-based effluent limitations to be placed in NPDES permits based on ELGs where applicable, on BPJ in the absence of guidelines, or on a combination of the two. In the absence of promulgated guidelines for the discharge, permit conditions may be established using BPJ procedures. EPA establishes limitations based on the following technology-based controls: BPT, BCT, and BAT. These levels of treatment are:

BPT - The first level of technology-based standards generally based on the average of the best existing performance facilities within an industrial category or subcategory.

BCT - Technology-based standard for the discharge from existing industrial point sources of conventional pollutants including BOD, TSS, *E. coli* bacteria, pH.

BAT - The most appropriate means available on a national basis for controlling the direct discharge of toxic and non-conventional pollutants to navigable waters. BAT effluent limits represent the best existing performance of treatment technologies that are economically achievable within an industrial point source category or subcategory.

2. Effluent Limitation Guidelines

The facility is a POTW that has technology-based ELG's established at 40 CFR Part 133, Secondary Treatment Regulation. Pollutants with ELG's established in this Chapter are BOD, TSS and pH. BOD limits of 30 mg/l for the 30-day average and 45 mg/l for the 7-day average and 85% percent (minimum) removal are found at 40 CFR §133.102(a). TSS limits; also 30 mg/l for the 30-day average and 45 mg/l for the 7-day average and 85% percent (minimum) removal are found at 40 CFR §133.102(b). ELG's for pH are between 6-9 s.u. and are found at 40 CFR §133.102(c).

Regulations at 40 CFR §122.45(f)(1) require all pollutants limited in permits to have limits expressed in terms of mass such as pounds per day. When determining mass limits for POTWs or similar, 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)(l)/(mg)(MG) * design flow in MGD

30-day average BOD/TSS loading = 30 mg/l * 8.345 (lbs)(l)/(mg)(MG) * 0.075 MGD = 18.8 lbs/day
7-day average BOD/TSS loading = 45 mg/l * 8.345 (lbs)(l)/(mg)(MG) * 0.075 MGD = 28.2 lbs/day
A summary of the technology-based limits for the facility is:

Effluent Characteristic	**Discharge Limitations** lbs/day, unless noted		**Discharge Limitations** mg/l, unless noted	
Parameter	30-day Avg	7-day Max	30-day Avg	7-day Max
BOD	18.8	28.2	30	45
BOD, % removal[1]	≥ 85	---	---	---
TSS	18.8	28.2	30	45

TSS, % removal	≥ 85	---	---	---
pH	N/A	N/A	6.0 to 9.0 s.u.	

[1] % removal is calculated using the following equation: [(average monthly influent concentration – average monthly effluent concentration) ÷ average monthly influent concentration] * 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. State Water Quality Standards

The general and specific stream standards are provided in NMWQS (20.6.4 NMAC amended through November 20, 2012). The discharge is to receiving water Christensen arroyo (intermittent stream, 20.6.4.98 NMAC), thence to San Francisco River (20.6.4.601 NMAC). The designated uses of the receiving water are irrigation, livestock watering, wildlife habitat, marginal warmwater and marginal coldwater aquatic life and primary contact.

4. Permit Action - Water Quality-Based Limits

Regulations promulgated at 40 CFR §122.44(d) require limits in addition to, or more stringent than effluent limitation guidelines (technology based). State WQS that are more stringent than effluent limitation guidelines are as follows:

a. pH

For marginal warmwater and marginal coldwater aquatic life, criteria for pH is between 6.6 and 9.0 s.u. pursuant to 20.6.4.900.H.6 NMAC.

b. Bacteria

Criteria for E. coli bacteria is at 206 cfu/100 ml monthly geometric mean and 940 cfu/100 ml daily maximum pursuant to 20.6.4.98 NMAC. Limitations for E. Coli have been assigned as part of an approved TMDL of the current 2016-2018 State of New Mexico 303(d) List of Assessed River/Stream

reaches requiring Total Maximum Daily Loads. The EPA approved a TMDL in 2014 that established WLA's for bacteria from various point sources in the San Francisco River including The Village of Reserve. The TMDL established a WLA for bacteria of 3.58×10^8 cfu/day based on 126 cfu/100 ml effluent limit, a 3.79 × 107 conversion factor and 0.075 MGD design flow. The conversion factor is based on the following:

C as cfu/100 ml × 1000 ml/liter × 1liter/0.264 gallons × Qe expressed as MGD

Because the WWTP is discharging, albeit indirectly, to a waterbody which is impaired for E. coli, the WLA assigned to the facility in this TMDL reflects the more stringent E. coli criterion of the receiving water (San Francisco River – Willow Spring s Cyn to NM 12 at Reserve). In addition the TMDL directs the E.Coli limits be revised. As a result, the effluent permit limits for E. coli will be revised to include a monthly geometric mean criterion of 126 cfu/100 mL and a single sample criterion of 410 cfu/100 mL.

Effluent limit for E. Coli has been establish at 126 cfu/100 mL for 30-day average, 410 cfu/100 mL for daily max and a WLA of 3.58×10^8 cfu/day.

c. Dissolved Oxygen

An evaluation of the permittee's impact on the receiving water dissolved oxygen was completed as part of the permitting process. A steady state model (LA-QUAL) was used to evaluate the biochemical oxygen demand of the discharge and associated constituents including ammonia. A complete characterization of the receiving water was not available. Certain parameters, including flow, were available and were utilized. However, the receiving water model also used default values to estimate the various unavailable hydrodynamic and water quality parameters. The discharge was modeled using data obtained from the application, permits limits and defaults were used for unavailable discharge characterization data.

The evaluation demonstrated that the discharge would not cause an excursion of the in-stream standard of 5 mg/L. As a result, no further DO requirement are established in the draft permit.

d. Toxics

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

All applicable facilities are required to fill out appropriate sections of the Form 2A and 2S, to apply for an NPDES permit or reissuance of an NPDES permit. The new form is applicable not only to POTWs, but also to facilities that are similar to POTWs, but which do not meet the regulatory definition of "publicly owned treatment works" (like private domestics, or similar facilities on Federal property). The forms were designed and promulgated to "make it easier for permit applicants to provide the necessary information with their applications and minimize the need for additional follow-up requests from permitting authorities," per the summary statement in the preamble to the Rule. These forms became effective December 1, 1999, after publication of the final rule on August 4, 1999, Volume 64, Number 149, pages 42433 through 42527 of the FRL.

The facility is designated as a minor, and does not need to fill out the expanded pollutant testing section Part D of Form 2A. There are no toxics that need to be placed in the draft permit except for TRC described below.

d. TRC

The facility uses chlorine to treat bacteria prior to discharge. The WQS for TRC is 11 µg/l for chronic conditions and 19 µg/l for acute. Since acute conditions do not allow dilution; the limit must be met at end-of-pipe, but chronic standards do allow dilution, the permit shall use the most stringent WQS for the permit limit. CD was calculated at 100 %. The in-stream TRC concentration after allowing for dilution is; 11 µg/l ÷ 1= 11 µg/l. Since this value is less than the 19 µg/l end-of-pipe acute standard, the 11 µg/l is more stringent and will be more protective. The draft permit shall maintain the 11 µg/l limit in the previous permit. The permittee states that they will be installing UV, but it is unknown when. As a result, the permit directs the TRC limit to be applicable when chlorine is used for bacteria control and/or cleaning.

5. Monitoring Frequency for Limited Parameters

Regulations require permits to establish monitoring requirements to yield data representative of the monitored activity, 40 CFR §122.48(b), and to assure compliance with permit limitations, 40 CFR §122.44(i)(1). Sample frequency is based on Table 9 (page 34 of the NMIP) for design flow of 0.1 MGD or less. Due to small size of the plant, pH and TRC are monitored monthly instead of 5/week.

Parameter	Frequency	Sample Type
Flow	Daily	Continuous
pH	1/month	Grab
BOD	1/month	Grab
TSS	1/month	Grab
% Removal	1/month	Calculation
TRC	1/month	Instantaneous Grab
E. coli Bacteria	1/month	Grab

D. WHOLE EFFLUENT TOXICITY

Procedures for implementing WET terms and conditions in NPDES permits are contained in the NMIP. Table 11 (page 42) of the NMIP outlines the type of WET testing for different types of discharges. The requirements are the same for this size of WWTP discharging to a perennial stream with critical dilution greater than 10% or to an intermittent stream. The first test failed for sublethal, but passed for lethal effects to C. Dubia. Upon retest, the test passed for sublethal effects to C. Dubia. As a result, EPA concludes that this effluent is not likely to cause or contribute to an exceedance of the State water quality standards, however monitoring frequency has been increased to once every two years to collect more information about potential sublethal toxicity. WET limits will not be established in the proposed permit. Based on the nature of the discharge, a POTW/POTW-like, the design flow of 0.075 MGD, and the nature of the receiving water, intermittent with the critical dilution of 100%, the NMIP directs the WET testing to be 7-day chronic tests using *Ceriodaphnia dubia* and *Pimephales promelas* once per permit term.

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%. The low-flow effluent concentration (critical low-flow dilution) is defined as 100% effluent. The permittee shall limit and monitor discharge(s) as specified below:

Effluent Characteristic	Discharge Limitations		Monitoring Requirements	
WET Testing (7-day Static Renewal)[1]	30-day Avg Min.	7-day Min.	Frequency[2, 3]	Type
Ceriodaphnia dubia	Report	Report	Once/2 years	Grab
Pimephales promelas	Report	Report	Once/2 years	Grab

[1] Monitoring and reporting requirements begin on the effective date of this permit. See Part II of the permit, Whole Effluent Toxicity Testing Requirements for additional WET monitoring and reporting conditions.
[2] The test shall take place between November 1 and April 30 if possible. This permit does not establish requirements to automatically increase the WET testing frequency after a test failure, or to begin a toxicity reduction evaluation (TRE) in the event of multiple failures. However, upon failure of any WET test, the permittee must report the results to EPA and NMED, Surface Water Quality Bureau, in writing, within 5 business days of notification of the test failure. EPA and NMED will review the test results and determine the appropriate action necessary, if any.
[3] First sample shall be taken in the 1st year of the permit. Second sample shall be taken in the 3rd year of the permit, etc.

VI. FACILITY OPERATIONAL PRACTICES

A. SEWAGE SLUDGE

The permittee shall use only those sewage sludge disposal or reuse practices that comply with the federal regulations established in 40 CFR Part 503 "Standards for the Use or Disposal of Sewage Sludge". EPA may at a later date issue a sludge-only permit. Until such future issuance of a sludge-only permit, sludge management and disposal at the facility will be subject to Part 503 sewage sludge requirements. Part 503 regulations are self-implementing, which means that facilities must comply with them whether or not a sludge-only permit has been issued. 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. The permittee shall require any indirect discharger to the treatment works to comply with the reporting requirements of Sections 204(b), 307, and 308 of the Act, including any requirements established under 40 CFR Part 403. The following pollutants may not be introduced into the treatment facility: Pollutants which create a fire or explosion hazard in the publicly owned treatment works (POTW), including, but not limited to, wastestreams with a closed cup flashpoint of less than 140 degrees Fahrenheit or 60 degrees Centigrade using the test methods specified in 40 CFR 261.21; Pollutants which will cause corrosive structural damage to the POTW, but in no case discharges with pH lower than 5.0, unless the works are specifically designed to accommodate such discharge; Solid or viscous pollutants in amounts which will cause obstruction to the flow in the POTW, resulting in Interference; Any pollutant, including oxygen demanding pollutants (e.g., BOD), released in a discharge at a flow rate and/or pollutant concentration which will cause Interference with the POTW; Heat in amounts which will inhibit biological activity in the POTW resulting in Interference but in no case heat in such quantities that the temperature at the POTW treatment plant exceeds 40 degrees

Centigrade (104 degrees Fahrenheit) unless the Approval Authority, upon request of the POTW, approves alternate temperature limits; Petroleum oil, non-biodegradable cutting oil, or products of mineral oil origin in amounts that will cause interference or pass through; Pollutants which result in the presence of toxic gases, vapors, or fumes within the POTW in a quantity that may cause acute worker health and safety problems; and any trucked or hauled pollutants, except at discharge points designated by the POTW.

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.

Electronic Reporting Rule

Discharge Monitoring Report (DMR) results shall be electronically reported to EPA per 40 CFR 127.16. To submit electronically, access the NetDMR website at https://netdmr.epa.gov. Until approved for Net DMR, the permittee shall request temporary or emergency waivers from electronic reporting. To obtain the waiver, please contact: U.S. EPA - Region 6, Water Enforcement Branch, New Mexico State Coordinator (6EN-WC), (214) 665-6468. If paper reporting is granted temporarily, the permittee shall submit the original DMR signed and certified as required by Part III.D.11 and all other reports required by Part III.D. to the EPA and copies to NMED as required (See Part III.D.IV of the permit). Reports shall be submitted monthly.

Sufficiently Sensitive Analytical Methods (SSM)

The permittee must use sufficiently sensitive EPA-approved analytical methods (SSM) (under 40 CFR part 136 or required under 40 CFR chapter I, subchapters N or O) when quantifying the presence of pollutants in a discharge for analyses of pollutants or pollutant parameters under the permit. In case the approved methods are not sufficiently sensitive to the limits, the most SSM with the lowest method detection limit (MDL) must be used as defined under 40 CFR 122.44(i)(1)(iv)(A). If no analytical laboratory is able to perform a test satisfying the SSM in the region, the most SSM with the lowest MDL must be used after adequate demonstrations by the permittee and EPA approval.

VII. 303(d) LIST

The Christensen arroyo (Intermittent Waters 20.6.4.98 NMAC) is not in the 303(d) list. However, the current 2016-2018 State of New Mexico Integrated Clean Water 303(d)/305(b) Report shows that the San Francisco River from Willow Springs Cyn to NM 12 at Reserve in Segment 20.6.4.601 NMAC is not supporting primary contact due to E. Coli. A TMDL for the San Francisco Watershed (from Willow Springs Cyn to NM 12) was finalized in September 2014. A WLA allocation of 3.58×10^{8} cfu/day was assigned and has been incorporated into the permit. In addition a monthly geometric mean criterion of 126 cfu/100 mL and a single sample criterion of 410 cfu/100 mL is being incorporated into the permit as directed by the TMDL document.

No additional limitations are required to address 303(d) concerns and if at a later time the segment is determined to be impaired, and/or a TMDL is done, a TMDL is completed, or a TMDL is updated the standard reopener clause will allow additional limitations to be placed in the permit.

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 water, which is protective of the designated uses of that water, NMAC Section 20.6.4.8.A.2.

IX. ENDANGERED SPECIES CONSIDERATIONS

There were nine endangered/threatened species listed in the previous permit: Mexican spotted owls, Southwestern willow flycatcher, Gila trout, Least tern, Chiricahua leopard frog, Loach minnow, Spikedace, Zuni fleabane and Mexican Wolf. These species were listed in the previous permit with determination of "no effect". In addition to the species above, four other species have been listed: New Mexico Jumping Mouse, Yellow Billed Cuckoo, Narrow Headed Gartersnake and Northern Mexican Gartersnake. Adjacent to the WWTP, Critical habitat is proposed for the narrow-headed gartersnake 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. Reissuance of this permit will not result in the destruction or adverse modification of habitat, as no construction activities are planned.

2. The draft permit is consistent with the States WQS and does not increase pollutant loadings.

3. EPA determines that Items 1, thru 2 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.

X. 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.

XI. PERMIT REOPENER

The permit may be reopened and modified during the life of the permit if NMWQS are promulgated or revised. In addition, if the State develops or revises 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.

XII. VARIANCE REQUESTS

None

XIII. 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 of COE, to the Regional Director of FWS and to the National Marine Fisheries Service prior to the publication of that notice.

XIV. FINAL DETERMINATION

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

XV. ADMINISTRATIVE RECORD

The following information was used to develop the proposed permit:

A. APPLICATION(s)

A complete application including EPA Application Forms 1, 2A & 2S was received on November 5, 2018.

B. 40 CFR CITATIONS

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, effective August 11, 2017.

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

State of New Mexico Clean Water Act 303(d)/305(b) Integrated Report and List, 2016-2018.