NPDES PERMIT NO. NM0031038
FACT SHEET

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

APPLICANT:

Village of Cimarron Wastewater Treatment Plant
P.O. Box 654
Cimarron, NM 87714

ISSUING OFFICE:

U.S. Environmental Agency
Region 6
1201 Elm Street, Suite 500
Dallas, TX 75270

PREPARED BY:

Ruben Alayon-Gonzalez
Environmental Engineer
Permitting Section (6WD-PE)
Water Division
VOICE: 214-665-2785
EMAIL: alayon-gonzalez.ruben@epa.gov

DATE PREPARED: August 24, 2020

PERMIT ACTION

Proposed reissuance of the current NPDES permit issued September 30, 2015, with and effective date of November 1, 2015, and an expiration date of October 31, 2020.

RECEIVING WATER – BASIN

The discharge from Outfall 001 is the French Lake, a tributary of the Cimarron River.

DOCUMENTS ABBREVIATION

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
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
FWS	United States Fish and Wildlife Service
mg/l	Milligrams per liter
ug/l	Micrograms per liter
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	Wasteload allocation
WET	Whole effluent toxicity
WQCC	New Mexico Water Quality Control Commission
WQMP	Water Quality Management PlanWWTP Wastewater treatment plant

I. PROPOSED CHANGES FROM PREVIOUS PERMIT

- Discharge Monitoring Report (DMR) results shall be electronically reported to EPA per 40 CFR 127.16.
- DO has been added as a monitoring requirement only in this draft permit.

II. APPLICANT LOCATION

The facility is located at Village of Cimarron Wastewater Treatment Plant (WWTP) is off Highway 58 approximately one mile southeast of the Village of Cimarron in Colfax County, NM. The effluent from the site is discharged into the French Lake in Water Quality Segment 20.6.4.306 thence to Ponil Creek thence to the Cimarron River.

The discharge is located to French Lake, a tributary of the Cimarron River, at Latitude 36° 30' 27" N and Longitude 104° 53' 45" W, in Colfax County, New Mexico.

III. DISCHARGE ACTIVITY

Under SIC code 4952, the applicant operates a sewage treatment plant or facility, here after referred to as a POTW. The facility has a design flow capacity of 0.008 MGD.

The Village of Cimarron WWTP serves a population of approximately 950 people. According to Village representatives, 540 hook-ups are served by the drinking water distribution system. Raw sewage flows by gravity through the collection system. One lift station is located on the south side of town. The raw sewage enters the WWTP through a 4" to 6" flume where a wooden stick is used as the staff gauge to measure influent flow. The staff gauge affixed to the wall is coated with debris and is unreadable. The raw sewage is split between two lagoons. One lagoon has a small mixing unit anchored in the center. Each lagoon is roughly 2 acres in size followed by two small sand filters designated for each lagoon then through a 6 inch flume that has no staff gauge to the outfall at French Lake. NMED inspections conducted on 7/7/16 did observe various deficiencies within the wastewater system.

Extremely high levels of solids are present in both lagoons. Around the edges, solids are so thick that plants have taken root and are growing in the lagoons. It appears that solids have never been wasted. There are no sludge drying beds at the site. According to facility representatives, with the current treatment units, solids would have to be hauled to an offsite location for processing and disposal. According to Cimarron representatives, the nearest location for solids disposal is in Colorado. The village has a loan through the NMED Constructions Program Bureau to deal with their extreme solids problem in the lagoons and to improve the collection system.

IV. EFFLUENT CHARACTERISTICS

The facility submitted EPA Permit Application Form 2A, which provides a quantitative description of the discharge shown below:

Pollutant Table - 1

PARAMETER	**Max. Daily** (mg/L, unless noted)
Design Flow, MGD	0.008
Temperature, winter	1 °C
Temperature, summer	14 °C
pH, minimum	6.2 s.u.
pH, maximum	7.7 s.u.
BOD_5	65
FCB	<1 MPN
TSS	48
TRC	0.0

*The facility hasn't discharged in at least three years.

V. 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.

The facility submitted a complete permit application. It is proposed that the permit be reissued for a 5-year term following regulations promulgated at 40 CFR §122.46(a). The existing permit is administratively continued until this permit is issued.

VI. 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 ELGs, 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 E.coli bacteria, TRC, pH.

B. TECHNOLOGY-BASED EFFLUENT LIMITATIONS/CONDITIONS

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

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

BCT – Technology-based standard for the discharge from existing industrial point sources of conventional pollutants including BOD, TSS, fecal coliform, pH, and O&G.

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

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 WWTPs, the plant's design flow is used to establish the mass load. Mass limits are determined by the following mathematical relationship for lagoons treatment systems:

Loading in lbs/day = pollutant concentration in mg/l * 8.34 conversion factor * design flow in MGD

The equivalent to secondary treatment standards as specified in 40 CFR §133.105:

30-day average BOD5 loading = 45 mg/l * 8.34 conversion factor * 0.0083 MGD

30-day average BOD5 loading = 3.1 lbs/day

7-day average BOD loading = 65 mg/l * 8.34 conversion factor * 0.0083 MGD

7-day average BOD loading = 4.5 lbs/day

Adjusted TSS Requirements for Waste Stabilization Ponds:

30-day average TSS loading = 90 mg/l * 8.34 conversion factor * 0.0083 MGD

30-day average TSS loading = 6.2 lbs/day

7-day average TSS loading = 135 mg/l * 8.34 conversion factor * 0.0083 MGD

7-day average TSS loading = 9.3 lbs/day

TABLE 4
Technology-Based Effluent Limits – 0.0083 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	3.1	4.5	45	65
TSS	6.2	9.3	90	135
pH	NA	NA	6.0 - 9.0 s.u.	

C. Water Quality Based Effluent 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 effective through September 12, 2018). The facility discharges to the French Lake. This is designated as segment number 20.6.4.306. The designated uses of the receiving water require protective limits for irrigation, warmwater aquatic life, livestock watering, wildlife habitat, and primary contact.

4. Permit Action – Water Quality-Based Limits

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) 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

The State of New Mexico WQS to protect the primary contact and warmwater aquatic life uses is specified in 20.6.4.900.D NMAC and requires pH to be between 6.6 and 9.0 s.u. This is more limiting than the technology-based limits presented earlier. The draft permit shall establish 6.6 to 9.0 s.u. for pH based on the State's WQS. The monitoring frequency will remain daily as an instantaneous grab (field measurement) sample as the current permit.

b. Bacteria

New Mexico WQS for *E. coli* bacteria are specified in 20.6.4.900.D NMAC. The NMWQS designed to protect the primary contact use requires a monthly geometric mean *E. coli* limit of 126 cfu/100 mL or less and a single sample *E. coli* limit of 410 cfu/100 ml or less. Due to the TMDL on the receiving waterbody, the WLA will be applied. See more of a description in the 303(d) List Impairments section.

c. Dissolved Oxygen:

The State of New Mexico WQS criterion applicable to the warm-water aquatic life designated use is at least 5 mg/L for dissolved oxygen. As a part of the permitting process, EPA used the LA-QUAL water quality model, which is a steady-state one-dimensional model which assumes complete mixing within each modeled element, to develop permit parameters for the protection of the State of New Mexico surface water WQS for DO (i.e., 5 mg/L). 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, but in the "2018 - 2020 State of New Mexico Clean Water Act §303(d)/§305(b) Integrated List" DO is not supporting the Warmwater Aquatic Life since 2018. DO will be required to be monitored and reported weekly when discharging. The output file is attached in the Fact Sheet Appendix 1.

d. Toxics

i. General Comments

CWA §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, 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.

This facility is designated by EPA NPDES as a minor (0.0083 MGD) and does not need to fill out the expanded pollutant testing section Part D of the Form 2A.

ii. TRC

TRC must meet 11ug/L, same as the current permit. The limits for TRC are based on acute and chronic chlorine limitations for the protection of aquatic life and the protection of wildlife habitat found in the Table of Numeric Criteria (20.6.4.900.J.2 NMAC).

iii. Critical Conditions

Critical dilutions are used to establish certain permit limitations and conditions. The State of New Mexico WQS allows a mixing zone for establishing pollutant limits in discharges. The mixing zones established by the State of New Mexico do not overlap with tribal/pueblo boarders. Both the NMWQS and NMIP 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. Since the receiving water is a lake, the effluent limitations shall be determined using the NMIP calculations with the receiving water low flow being 4Q3 = 0.0 MGD. Chronic or acute biomonitoring tests with a critical dilution of 100% will be used to determine whole effluent toxicity in accordance with the Applicability of Water Quality Standards section of the NMWQS. CD, is determined, according to the NMIP, to be 100%. The critical dilution (C_D) series (percentage): 32%, 42%, 56%, 75%, 100%.

D. TMDL Requirements

A TMDL documents the amount of a pollutant a waterbody can assimilate without violating a state's water quality standards. It also allocates that load capacity to known point sources and nonpoint sources at a given flow. TMDLs are defined in 40 CFR Part 130 as the sum of the individual WLA for point sources and LA for nonpoint sources and natural background conditions, and include a MOS. In July 23, 2010, EPA approved a NMED TMDL Cimarron Watershed.

Village of Cimarron WWTP (NM0031038) discharges to French Lake, which is hydrologically linked to Ponil Creek. Each NPDES permitted facility that discharges into an impaired reach has a wasteload allocation (WLA) included in this TMDL. The approved WLA for E. coli bacteria from the TMDL is established as a discharge limitation in this permit.

Facility	**Design Capacity Flow (mgd)**	***E. coli* Effluent Limit (cfu/100mL) *(a)***	**Conversion Factor*(b)***	**Waste Load Allocation (cfu/day)**
NM0031038 Village of Cimarron	0.0083	126	3.79×10^7	3.96×10^7

For conversion of cfu to the reportable MPN:

1 cfu (colony forming units) = 1 MPN (most probable number)

A standard reopener clause is established in the permit that would allow additional conditions if an additional watershed TMDL is developed and/or new water quality standards are established.

E. Whole Effluent Toxicity Testing

Procedures for implementing WET terms and conditions in NPDES permits are contained in the NMIP. In Section V.C.4.c.ii.(b) above; "Critical Conditions", it was shown that the critical dilution, CD, for the facility is 100%. Based on the nature of the discharge (POTW), the design flow (0.008 MGD), the nature of the receiving water (Lake), and the critical dilution (100%), Table 11 (footnote 6) of the NMIP directs the WET test to be a 48-hour acute test using *Daphnia pulex* and *Pimephales promelas* at a once (1) every 6 months for the first year. If all pass, reduce for years 2-5 to *Daphnia pulex* once (1) every 6 months and *Pimephales promelas* at once (1) per year.

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%.

EFFLUENT CHARACTERISTICS	**DISCHARGE MONITORING**	**MONITORING REQUIREMENTS**	
WHOLE EFFLUENT TOXICITY (48-Hr Acute Static Renewal/ NOEC) *	VALUE	MEASUREMENT FREQUENCY	SAMPLE TYPE
Ceriodaphnia dubia	Report	Once/6 months	24-hr Composite
Pimephales promelas	Report	Once/6 months	24-hr Composite

(1) Monitoring and reporting requirements begin on the effective date of this permit.
(2) If all pass, reduce for years 2-5 to Daphnia pulex once/6months and Pimephales promelas to once/year. If any test fails, the frequency of testing returns to once/quarter for both species for the remainder of the permit.

F. 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).

In the previous permit, the facility was given a monitoring frequency of one (1) time per week for BOD, TSS and E. coli since the facility discharges twice per year if they ever discharge. Based on the treatment process and the discharge frequency of this facility this draft permit will maintain the same monitoring frequency as the previous permit. Monitoring must be conducted according to test procedures approved in 40 CFR Part 136, unless other test procedures have been specified in this permit or approved by the Regional Administrator.

G. Facility Operational Practices

1. Sewage Sludge

The permittee shall use only 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.

2. Wastewater 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.

3. 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 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 privately owned treatment works subject to pretreatment standards under §307(b) of the CWA and 40 CFR Part 403.

4. Electronic Reporting Rule

The EPA published the electronic reporting rule in the federal register (80 FR 64063) on October 22, 2015. The rule became effective on December 21, 2015. One year after the effective date of the final rule, NPDES regulated entities that are required to submit DMRs (including majors and non-majors, individually permitted facilities and facilities covered by general permits) must do so electronically. All DMRs shall be electronically reported effective December 21, 2016, per 40 CFR 127.16. If you are submitting on paper before December 21, 2016, you must report on the Discharge Monitoring Report (DMR) Form EPA. No. 3320-1 in accordance with the "General Instructions" provided on the form. No additional copies are needed if reporting electronically, however when submitting paper form EPA No. 3320-1, 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 other agencies as required.

(See Part III.D.IV of the permit.). To submit electronically, access the NetDMR website at www.epa.gov/netdmr and contact the R6NetDMR@epa.gov in-box for further instructions. PA and authorized NPDES programs will begin electronically receiving these DMRs from all DMR filers and start sharing these data with each other.

VII. 303(D) LIST

In New Mexico's 2018-2020 CWA §303(d) / 305(b) Integrated List, Ponil Creek (Cimarron River to Hwy 64) is listed as being impaired for *DO* for warmwater aquatic life use. A TMDL for *E. coli* was developed in 2010, and in Part VI.C.5 of the Fact Sheet, permit conditions were identified as being based on the approved TMDL to address the *E. coli* impairment. The standard reopener language in the permit allows additional permit conditions if warranted by future changes and/or new TMDLs. No additional pollutants are listed for this waterbody.

VIII. ANTIDEGRADATION

The State of New Mexico has antidegradation requirements to protect existing uses through implementation of its WQS. The limitations and monitoring requirements set forth in the proposed draft are developed from the appropriate State WQS and are protective of those designated uses. Furthermore, the antidegradation policy sets forth the intent to protect the waters whose existing 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.

IX. ANTIBACKSLIDING

The proposed permit is consistent with the requirements to meet antibacksliding provisions of the Clean Water Act, Section 402(o), 40 CFR 122.44(l)(i)(A), 40 CFR 122.44(l)(1), and 40 CFR 122.62 (a)(3)(i)(B) which state that final effluent limitations must be as stringent as those in the previous permit, unless new information (e.g. revised WQS), 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 of the previous permit for BOD_5 and TSS. All of the changes represent permit requirements that are consistent with the State's WQS and WQMP.

X. ENDANGERED SPECIES CONSIDERATIONS

According to FWS Consultation Official Species List for Project Number NM0031038 Village of Cimarron WWTP, three (3) species in Colfax County are listed as endangered: Southwestern willow flycatcher (Empidonax traillii extimus),Black-Footed ferret (Mustela nigripes) and the New Mexico meadow jumping mouse (Zapus hudsonius luteus); and two (2) species listed as threatened: the Mexican spotted owl (Strix occidentalis lucida) and the piping plover (Charadrius melodus).

New Mexico meadow jumping mouse (Zapus hudsonius luteus):
The New Mexico jumping mouse (*Zapus hudsonius luteus*) nests in dry soils, but uses moist, streamside, dense riparian/wetland vegetation. The jumping mouse appears to only utilize two riparian community types: 1) persistent emergent herbaceous wetlands (i.e., beaked sedge and reed canary grass alliances); and 2) scrub-shrub wetlands (i.e., riparian areas along perennial streams that are composed of willows and alders). It especially uses microhabitats of patches or stringers of tall dense sedges on moist soil along the edge or permanent water. The jumping mouse is generally nocturnal, but occasionally diurnal. It is active only during the growing season of the grassed and forbs on which it depends.

The New Mexico meadow jumping mouse has seen a significant population decline. This decline is mainly due to habitat loss and fragmentation across its range. Given that a majority of the remaining mouse habitat is on federal land, the USFWS has been working closely with the USDA Forest Service Southwestern Region (USFS).

The reissuance of the Village of Cimarron WWTP permit NM0031038 with a discharge that is constant with the previous permit, with added monitoring frequency, and with permit limits designed to maintain or improve water quality in the downstream waterbodies, the EPA Region 6 determines that the reissuance of the above permit will not negatively impact the New Mexico jumping mouse (*Zapus hudsonius luteus*) or the proposed critical habitat.

Mexican spotted owl (Strix occidentalis lucida) Critical Habitat:
The Mexican spotted owl (*Strix occidentalis lucida*) critical habitat includes canyon and montane forest habitats across a range that extends from southern Utah and Colorado, through Arizona, New Mexico, and west Texas, to the mountains of central Mexico. U.S. Fish & Wildlife Service has now designated approximately 4.6 million acres of critical habitat for the owl in Arizona, Colorado, New Mexico, and Utah, on Federal Lands.

Critical habitat refers to specific geographic areas that are essential for the conservation of a threatened or endangered species and that may require special management considerations. A critical habitat designation does not set up a preserve or refuge and only applies to situations where Federal funding, authorization or permits are involved. Since no private, state or tribal lands are being designated, the designation will only affect activities on Federal lands. Since there are no Federal or Tribal lands downstream of the discharge point, there will be no effect to the Mexican spotted owl (*Strix occidentalis lucida*).

Southwestern Willow Flycatcher (*Empidonax traillii extimus*):
The Southwestern Willow flycatcher (*Empidonax traillii extimus*) requires dense riparian habitats (cottonwood/willow and tamarisk vegetation) with microclimatic conditions dictated by the local surroundings. Saturated soils, standing water, or nearby streams, pools, or cienegas are a component of nesting habitat that also influences the microclimate and density vegetation component. Habitat not suitable for nesting may be used for migration and foraging. Recurrent flooding and a natural hydrograph are important to withstand invading exotic species (tamarisk). Loss and degradation of dense riparian habitats are the primary habitat threat to the flycatcher.

Historically, water developments that altered flows in the rivers and streams were the primary threat. Now, with riparian areas limited and re-growth difficult due to changes in flows, fire is a significant risk to remaining habitats. Human disturbances at nesting sites may result in nest abandonment

The reissuance of the Village of Cimarron WWTP permit NM0031038 with a discharge that is constant with the previous permit, with added monitoring frequency, and permit limits designed to maintain or improve water quality in the downstream waterbodies the EPA Region 6 determines that the reissuance of the above will not negatively affect the Southwestern Willow flycatcher (*Empidonax traillii* extimus).

Piping Plover (*Charadrius melodus)* Critical Habitat:
The habitat of the Piping Plover (*Charadrius melodus)* nest on rivers on the bare areas of islands or sandbars rivers, piping plovers use the. They also nest on the pebbly mud of interior alkali lakes and ponds. Birds nesting on gravel have higher reproductive success than those nesting on alkali. According to the FWS Critical Habitat Mapper, there is no critical habitat for the piping plover located at or downstream of the discharge. Therefore, EPA Region 6 finds that at the existing discharge of treated effluent of 0.0083 MGD, the Village of Cimarron WWTP "*no affect"* on the Piping Plover (*Charadrius melodus*) critical habitat.

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. 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.

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

3. EPA determines that Items 1 and 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.

XI. HISTORICAL AND ARCHEOLOGICAL PRESERVATION CONSIDERATIONS

The reissuance of the permit should not have an impact on historical and/or archeological sites since no construction activities are planned in the reissuance.

XII. 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 develops 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.

XIII. VARIANCE REQUESTS

No variance requests have been received.

XIV. 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.

XV. FINAL DETERMINATION

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

XVI. ADMINISTRATIVE RECORD

The following information was used to develop the draft permit:

A. APPLICATION(s)

EPA Permit Application Form 2A received July 1, 2020

B. 40 CFR CITATIONS

Citations to 40 CFR as of August 24, 2020.

Sections 122, 124, 125, 133, 136

C. STATE WATER QUALITY REFERENCES

New Mexico State Standards for Interstate and Intrastate Surface Water, 20.6.4 NMAC, as amended through August 2019.

Final US EPA-Approved Total Maximum Daily Loads for the Cimarron River Watershed September 3, 2010.

Procedures for Implementing NPDES Permits in New Mexico, March 15, 2012.

State of New Mexico 303(d) List for Assessed Stream and River Reaches, 2018-2020.

D. OTHER

EPA Compliance Evaluation Inspection 9/28/16.

https://ecos.fws.gov/endangered/