NPDES PERMIT NO. NM0024899 FACT SHEET

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

APPLICANT

Town of Red River
P.O. Box 1020
Hwy 38, Mile Marker 10
Red River, NM 87558

ISSUING OFFICE

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

PREPARED BY

Jim Afghani
Environmental Engineer
Permitting Section (6WD-PE)
Water Division (6WD)
Voice: 214-665- 6615
Fax: 214-665-2191
Email: afghani.jim@epa.gov

DATE PREPARED

March 28, 2022

PERMIT ACTION

Proposed reissuance of the current permit issued with an effective date of May 1, 2017, and an expiration date of April 30, 2022.

RECEIVING WATER – BASIN

Red River – Rio Grande 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
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
ug/l	Micrograms per liter
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	publicly 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
USFWS	United States Fish & Wildlife Service
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 March 9, 2017, with an effective date of May 1, 2017, and an expiration date of April 30, 2022, are:

1. Added a schedule of compliance to sample and report copper, total recoverable and zinc, total recoverable during the initial three years from the effective date of the permit based on RP analysis of effluent data provided.

2. Added monitoring requirements for Diethyl Phthalate, 2,4-Dinitrotoluene, Di-n-Butyl Phthalate and Phenol. They had positive sample results in the permit application but did not show a RP. However, these pollutants show in the RP as higher than human health and aquatic life. The permittee should sample at least once per quarter from the first day of the effective permit through the end of the first year of the permit. This will more accurately demonstrate the presence and concentrations that do not exceed RP.

II. APPLICANT LOCATION and ACTIVITY

The facility is located at 2 Straight Creek Trail (near Mile Marker 10 on Highway 38) west of Red River, Taos County, New Mexico. Under the Standard Industrial Classification Code 4952, the facility is a POTW. It has a design flow of 0.9 MGD serving a year-round population of 500 and a peak tourist population of about 5500.

The WWTP is composed of headwork's that includes a bar screen to remove larger trash; plastic products, paper and rags. The flow then enters a vortex grit removal system and micro screens. The wastewater continues to three trains of four rotating biological contactors (RBCs); the trains are brought on-line as demand requires. Caustic soda is used to raise the pH of the wastewater. Wastewater from the RBCs then is measured at the Parshall flume and continues to the secondary clarifiers. Sludge from the clarifiers is pumped to aerobic digesters and sent to evaporative drying beds where it is dried and incorporated into compost. Flow is disinfected by ultraviolet light followed by stepped cascade aeration. The discharge is to the Red River by a submerged pipe. The outfall structure is located at the Fawn Lakes Campground, Questa District, Carson National Forest.

The discharge from the POTW is to the Red River thence to the Rio Grande in Waterbody Segment No. 20.6.4.122 of the Rio Grande Basin. The discharge is located at Latitude 36° 42' 46" North, Longitude 105° 26' 59" West.

III. EFFLUENT CHARACTERISTICS

A quantitative description of the discharge(s) described in the EPA Permit Application Form 2A received January 27, 2022, are presented below in table 1:

POLLUTANT TABLE – 1

Parameter	Maximum	Average
Flow, million gallons/day (MGD)	0.904	0.486
Temperature, winter (°C)	13	11.7
Temperature, summer (°C)	14.3	12.5
pH, minimum, standard units (su)	6.6	N/A
pH, maximum, standard units (su)	8.71	N/A
BOD_5 (mg/L)	40.61	13.16
E. coli (#bacteria/100 ml)	NA	NA

TSS (mg/L)	21.3	7.25
NH_3 (mg/L)	0.84	NA
TRC (mg/L)	NA	NA
DO (mg/L)	6.22	NA
Total Kjeldahl Nitrogen (TKN, mg/L)	5.90	NA
Nitrate plus Nitrite Nitrogen (mg/L)	8.67	NA
Oil & Grease (mg/L)	NA	NA
Phosphorus (mg/L)	0.97	NA
Total Dissolved Solids (TDS, mg/L)	335	NA

The facility has to sample and report all the priority pollutants identified in Part D, Expanded Effluent Testing Data of Form 2A. All the pollutants were sampled and tested and those pollutants that were detected are listed below in table 2.

POLLUTANT TABLE – 2 – Expanded Pollutant List

Parameter	**Maximum**	**Average**	**MQL/*MDL***
Hardness (As $CaCO_3$)	180 mg/L	NA	6.6 mg/l
Cadmium, total recoverable	0.91 ug/L	NA	1.0 ug/L
Copper, total recoverable	14 ug/L	NA	0.5 ug/L
Lead, total recoverable	10 ug/L	NA	0.5 ug/L
Nickel, total recoverable	13 ug/L	NA	0.5 ug/L
Selenium, total recoverable	0.84 ug/L	NA	5.0 ug/L
Zinc, total recoverable	140 ug/L	NA	20 ug/L
Phenol	1.07 ug/L	NA	10 ug/L
Diethyl phthalate	4.4 ug/L	NA	10 ug/L
Dimethyl phthalate	4.3 ug/L	NA	10 ug/L
2,4-dinitrotoulene	4.35 ug/L	NA	10 ug/L
2,6-dinitrotoulene	4.45 ug/L	NA	NA

A review of DMR data for the period of May 2017 to February 2022 shows violations of pH, E. coli, BOD_5 (percentage removal) and suspended solids (percentage removal).

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.

The facility submitted a permit renewal application January 27, 2022. 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.

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 BOD and TSS. Water quality-based effluent limitations are established in the proposed draft permit for E. coli bacteria, pH, TRC, copper, total recoverable and zinc, total recoverable.

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 treating sanitary wastewater. POTW's have technology based ELG's established at 40 CFR Part 133, Secondary Treatment Regulation. Pollutants with ELG's established in this Chapter are BOD_5, TSS and pH. BOD_5 limits of 30 mg/L for the 30-day average and 45 mg/L for the 7-day average are found at 40 CFR §133.102(a) (1). TSS limits; also 30 mg/L for the 30-day average and 45 mg/L for the 7-day average, 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 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

According to the renewal application, the maximum and average flow of the Red River wastewater treatment facility are 0.904 MGD and 0.486 MGD respectively. However, pervious permits estimated loadings were based on a design flow of 0.63 MGD as established in the WQMP. The draft permit will continue the loading limits based on that lower flow of 0.63 MGD.

The loading limits are as follows:

30-day average TSS/BOD loading = 30 mg/l * 8.345 lbs./gal * MGD = lbs./day

Based on 40 CFR §122.45(f), all pollutants limited in permits shall have limitations expressed in terms of mass. Limits are established in the draft permit for the 7-day average limits for BOD and TSS as follows:

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

Technology-Based Effluent Limits

EFFLUENT CHARACTERISTICS	**DISCHARGE LIMITATIONS**			
Parameter	30-Day Avg.	7-Day Avg.	30-Day Avg.	7-Day Avg.
Flow	N/A	N/A	Measure MGD	Measure MGD
BOD	157.7 lbs/Day	236.6 lbs/Day	30 mg/L	45 mg/L
TSS	157.7	236.6	30 mg/L	45 mg/L
pH	N/A	N/A	6.0 – 9.0 standard units	

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, effective July 24, 2020).

The facility discharges into the Red River in segment number 20.6.4.122 of the Rio Grande Basin. The designated uses of the receiving water are cold-water aquatic life, fish culture, irrigation, livestock watering, wildlife habitat 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. BACTERIA

Stream segment specific (20.6.4.122 NMAC) WQS for E. coli bacteria is 126 cfu/100 mL daily monthly geometric mean and 235 cfu/100 mL daily maximum. These limits are identical to the previous permit and are continued in the draft permit.

b. pH

Stream segment specific (20.6.4.122 NMAC) WQS for pH, 6.6 to 8.8 su, are more restrictive than the technology-based limits presented earlier but are identical to the previous permit and will be continued in the draft permit.

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 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 a major POTW for permitting purposes. It must supply the expanded pollutant testing list described in EPA Application Form 2A and as presented above in Part III of this Fact Sheet. Based on the pollutant data in Part III of this Fact Sheet, a water quality screen has been run to determine if discharged pollutant concentrations demonstrate RP to exceed WQS for the various designated uses. If RP exists, the screen will also calculate the appropriate permit limit(s) needed to be protective of such designated uses.

This screen is shown as **Appendix 1** of the Fact Sheet. This analysis of effluent data shows that copper and zinc have the potential to exceed the WQS. A compliance schedule has been added requiring the Town to sample and report copper, total recoverable, and zinc, total recoverable during the initial three years from the permit's effective date.

Diethyl Phthalate, 2,4-Dinitrotoluene, Di-n-Butyl Phthalate, and Phenol had positive sample results in the permit application but did not show an RP. However, these pollutants are higher than human health and aquatic life in the RP. Based on this observation, added once a quarter monitoring requirements for Diethyl Phthalate, 2,4-Dinitrotoluene, Di-n-Butyl Phthalate and from the first day of the effective permit through the end of the first year of the permit. The outcome perhaps will more accurately demonstrate the presence and concentrations that do not exceed RP.

The screen is based on the NMIP as of March 15, 2012. The application Form 2A provided the hardness; 180 mg/l, expressed as $CaCO_3$, for those hardness dependent WQS. The SWQB of the NMED provided the 4Q3; 6.683 cfs, upstream of the facility on the Red River. Based on the 4Q3; 6.683 cfs and the effluent flow, 0.9 MGD (1.395 cfs), the CD for the facility is:

$$CD = Qe/ [Qe + Qa] = 1.395/ [1.395 + 6.683] = 17\%.$$

ii. TRC

The facility uses UV to control bacteria. The previous permit however maintained an 11 ug/L TRC limit when chlorine is used as a treatment chemical for process equipment sanitization and/or filamentaceous algae control. The requirement will be maintained in the draft permit triggered only when chlorine is used in that manner.

5. TMDL AND OTHER REQUIREMENTS

The Red River (Rio Grande to Placer Creek) assessment unit was included on the 2000-2002 List of Impaired Waters for dissolved aluminum based on 1999 data. The dissolved aluminum listing remained on the List of Impaired Waters through the 2010 List. A TMDL for dissolved aluminum was developed for this assessment unit in 2005 and approved both by the NMWQCC on January 10, 2006, and the EPA on March 17, 2006.

Los Alamos National Laboratory and Chevron Mining, Inc. proposed to replace the dissolved aluminum WQC with a hardness-based total recoverable aluminum WQC during the 2009-2010 triennial review. NMSWQB raised concerns about the proposal which were addressed during the hearing for the triennial review. The NMWQCC approved the new WQC on October 14, 2010. EPA approved the WQC, but only for surface waters with pH>6.5 on June 18, 2012. For pH <6.5, old WQC remains in effect.

NMWQB finally withdrew the TMDL for aluminum for the Red River (Rio Grande to Placer Creek) in 2012. Based on this, the Red River (Rio Grande to Placer Creek) assessment unit was delisted for aluminum on the 2012-2014 Integrated List of Impaired Waters. This List was approved by the NMWQCC on March 13, 2012, and the EPA on May 18, 2012.

The aluminum effluent limits therefore were removed from the previous draft permit. Appendix A in the Integrated Report for 2020-2022 of the state of New Mexico Clean Water Act §303(d)/§305(b) shows that the designated uses of the receiving water are fully supporting irrigation, livestock watering, public water supply and wildlife habitat.

Designation for fish culture is not assessed. Assignment for cold-water aquatic life is not fully supported due to turbidity (5/5A) and aluminum, total recoverable (5/5C). Category 5/5A means that impaired for one or more designated or existing uses and a TMDL is underway or scheduled. Category5/5C means that impaired for one or more designated or existing uses and additional data will be collected before a TMDL is scheduled.

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 March 15, 2012, NMIP.
Flow is proposed to be monitored daily by totalizing meter. E. coli bacteria, BOD_5, and TSS shall be sampled at three times per month. When chlorine is used to disinfect treatment equipment and/or treat filamentaceous algae, TRC shall be sampled daily using instantaneous grab samples. Regulations at 40 CFR §136 define instantaneous grab as being analyzed within 15-minutes of collection. Sample type shall be grab for E. coli and TRC. BOD_5 and TSS shall be 6-hour composite, identical to the previous permit.

E. WHOLE EFFLUENT TOXICITY LIMITATIONS

Procedures for implementing WET terms and conditions in NPDES permits are contained in the NMIP, March 15, 2012. Table 11 of Section V of the NMIP outlines the type of WET testing for different types of discharges. Analysis of past WET data to determine RP is shown on **Appendix 2** of the Fact Sheet.

The permittee has performed twelve (12) WET tests for *Ceriodaphnia dubia* and eight (8) tests for *Pimephales promelas* during the last permit term and has passed all of them. EPA concludes based on the passed WET tests and the Reasonable Potential Analyzer that reasonable potential to cause toxicity does not exist and WET limits are not required. Therefore, routine WET monitoring will be continued in the draft permit consistent with the NMIP. During the period beginning the effective date of the permit and lasting through the expiration date of the permit, the permittee is authorized to discharge from Outfall 001 - the discharge to Red River of the treatment system aeration basin. The aeration basin receives process area wastewater, process area stormwater, and treated sanitary wastewater. Discharges shall be limited and monitored by the permittee as specified below:

WET TESTING (7-Day Chronic Static Renewal/ NOEC) *	VALUE	FREQUENCY	TYPE
Ceriodaphnia dubia	Report	Once/Quarter	24-Hr Composite
Pimephales promelas	Report	Once/Quarter	24-Hr Composite

***** Monitoring and reporting requirements begin on the effective date of this permit. See Part II of the permit for WET testing requirements and additional WET monitoring and reporting conditions. Grab samples are allowed per method, if needed.

The CD shown above is 17%. In addition to the CD, the permittee is required to perform four other dilutions in addition to a control with one dilution greater than the CD and three below it consistent with the NMIP. The other dilutions are 7%, 10%, 13% and 23%.

F. EFFLUENT TESTING FOR APPLICATION RENEWAL

In addition to the parameters identified in this fact sheet, EPA designated major POTW's are required to sample and report other parameters listed in tables of the EPA Form 2A and WET testing for its permit renewal. The minimum pollutant testing for NPDES permit renewals specified in Form 2A requires three samples for each of the parameters being tested. Current practice is to obtain the three samples over a short time frame, sometimes within two weeks during the renewal testing process.

In order to obtain a meaningful snapshot of pollutant testing for permit renewal purposes, the draft permit shall require that the testing for Tables A.12, B.6, and Part D of EPA Form 2A, or its equivalent if modified in the future, during the second, third and fourth years after the permit effective date.

This testing shall coincide with any required WET testing event for that year. The permittee shall report the results as a separate attachment in tabular form sent to the Permits and Technical Assistance Section Chief of the Water Quality Protection Division within 60 days of receipt of the lab analysis.

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." The specific requirements in the permit apply as a result of the design flow of the facility, the type of waste discharged to the collection system, and the sewage sludge disposal or reuse practice utilized by the treatment works. The permittee shall submit an Annual Sludge Status report in accordance with the NPDES Permit NM0024899, Parts I and Parts IV.

B. 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.

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 monthly. The monitoring results will be available to the public.

VII. 303(d) LIST

Additional permit action is not required at this time since the receiving waters are not on the State's latest (2020-2022) approved 303(d) list. A reopener clause will allow permit conditions to be addressed if and when the State assesses the receiving waters, and additional permit limits are required.

VIII. ANTIDEGRADATION

The NMAC, Section 20.6.4.8 "Anti-degradation Policy and Implementation Plan" sets forth the requirements to protect designated uses through implementation of the State water quality standards. The Red River WWTP is an existing facility without any increase in loadings, so the Tier-2 anti-degradation is not required.

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 anti-backsliding 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. As was stated in the previous draft permit, change in the aluminum standard had led to delisting of the receiving water from the CWA 303(d) list and withdrawing other TMDLs. This information had provided the exception to anti-backsliding.

X. ENDANGERED SPECIES CONSIDERATIONS

According to the most recent county listing available at USFWS website (https://ecos.fws.gov/ecp/report/species-listings-by-current-range-county?fips=35055), Seven species in Taos County are listed as endangered (E) or threatened (T): They are Peppered chub (E) (Macrhybopsis tetranema), New Mexico meadow jumping mouse (E) (Zapus hudsonius luteus), Mexican spotted owl (T) (Strix occidentalis lucida), Canada Lynx (Lynx canadensis), Yellow-billed Cuckoo (T) (Coccyzus americanus), Southwestern willow flycatcher (E) (*Empidonax traillii extimus*) and Black-footed ferret (E) (Mustela nigripes). The American bald eagle (*Haliaeetus leucocephalus*) was previously listed as endangered; however, the USFWS removed the American bald eagle in the lower 48 states from the Federal List of Endangered and Threatened Wildlife Federal Register, July 9, 2007, (Volume 72, Number 130).

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. Consultation with the USFWS, April 17, 1995, concurred with EPA's "no effect" determination regarding the discharge from the facility on threatened and endangered species and their habitat.
2. EPA has received no additional information since the previous permit issuance which would lead to revision of its determinations.

3. Also, no changes in the treatment of wastewater technology have been proposed or implemented since last issuance of the permit.

4. EPA determines that Items 1 thru 3 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. 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.

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 proposed permit:

A. APPLICATION(s)

EPA Application Form 2A received January 27, 2022.

B. 40 CFR CITATIONS

Citations to 40 CFR are as of March 11, 2022. Sections 122, 124, 125, 133, 136

C. STATE OF NEW MEXICO REFERENCES

New Mexico Water Quality Standards: New Mexico State Standards for Interstate and Intrastate Surface Water, 20.6.4 NMAC, effective July 24, 2020.

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

Statewide Water Quality Management Plan approved by EPA on October 23, 2020

State of New Mexico CWA §303(d)/§305(b) Integrated List & Report, 2020 – 2022, EPA Approved Version, January 22, 2021.

The US Fish and Wildlife Service (USFWS) website, https://ecos.fws.gov/ecp/report/species-listings-by-current-range-county?fips=35055

Received email from Helen Nguyen, EPA, R6 on February 8, 2022, providing DMR data for the town of Red River.

Emailed to Barbara Cooney, NMED on February 17 & March 10, 2022, requesting the 4Q3 and ambient data. Received requested information on March 28, 2022. No change in 4Q3 and received raw ambient data.

Emailed draft permit and DMR Excel file to Silvia Zavala, EPA, R6 on March 22, 2022, to check on WET monitoring requirements and language. Received draft permit with revised WET language on March 28, 2022.

Emailed to Barbara Cooney, NMED on March 29, 2022, requesting a review of draft permit. Received comments/recommendations on April 13, 2022, requesting addition of a schedule of compliance for copper and zinc, and reporting requirements for Diethyl Phthalate, 2,4-Dinitrotoluene, Di-n-Butyl Phthalate and Phenol.